

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 1. RULES AND THE RULEMAKING PROCESS

#### CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

*Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2010-13 as issued by Governor Brewer. (See the text of the executive order at 16 A.A.R. 1183, July 2, 2010.) The Governor's Office authorized the notice to proceed through the rulemaking process on July 2, 2010.*

[R10-166]

#### PREAMBLE

#### **1. Sections Affected**

R1-6-102  
R1-6-103  
R1-6-104  
R1-6-106  
R1-6-107  
R1-6-108  
R1-6-109  
R1-6-110  
R1-6-111  
R1-6-111  
R1-6-112  
R1-6-112  
R1-6-113  
R1-6-114  
R1-6-115  
R1-6-401  
Article 5  
R1-6-501

#### **Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Re-number  
Amend  
Re-number  
Amend  
Amend  
New Section  
New Section  
Amend  
New Article  
New Section

#### **2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-1051(E)

Implementing statute: A.R.S. §§ 41-1027, 41-1037, 41-1051 through 41-1056.01

#### **3. A list of all previous notices appearing in the *Register* addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 1675, August 27, 2010

#### **4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Joseph Sciarrotta, G.R.R.C. Chairman

Address: 100 N. 15th Ave., Suite 401  
Phoenix, AZ 85007

Telephone: (602) 542-2181

Fax: (602) 542-2199

E-mail: joseph.sciarrotta@azdoa.gov

or

**Notices of Proposed Rulemaking**

Name: Bill Hylen, G.R.R.C. Staff Attorney  
Address: 100 N. 15th Ave., Suite 401  
Phoenix, AZ 85007  
Telephone: (602) 542-4113  
Fax: (602) 542-1486  
E-mail: william.hylen@azdoa.gov

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Governor's Regulatory Review Council (G.R.R.C.) is amending its rules to implement the changes made to the Administrative Procedure Act (A.R.S. § 41-1001 et seq.) by HB 2260 and HB 2617 in 2010, 2nd Regular Session (Laws 2010, Ch. 287, 309). Changes to the rules include adding Sections to establish requirements for filing an early review petition of a proposed rule and a request for an extension to file a five-year review report. The new statutory criteria for G.R.R.C. approval of rules are being incorporated into the rules. The rules are also being amended to make them more clear, concise, and understandable.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

G.R.R.C. has not reviewed any study related to this rulemaking.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The primary economic impact of the rules is from providing procedures necessary to implement recent statutory changes. New Sections added by this rulemaking establish the procedures for persons filing a petition for early review of a proposed rule (R1-6-501), and a petition for an agency to consider including an obsolete rule in a scheduled five-year review report with recommendation for repeal (R1-6-115). Additional changes to clarify existing rules should have a beneficial economic impact on all users of the rules. The rulemaking will apply to all state agencies subject to G.R.R.C. review, currently estimated at 100 agencies. The rulemaking will also apply to members of the public filing an appeal of an economic, small business, and consumer impact statement (EIS) with G.R.R.C. or making comments on a rulemaking or five-year review report filed with G.R.R.C.

The economic impact of new Section R1-6-114 regarding a request for an extension to file a five-year review report will provide more structure and clarity to the process of an agency asking for an extension. A.R.S. § 41-1056 has been amended to give G.R.R.C. discretion in whether to grant an extension and the length of any extension granted. The rules provide that an extension request of 120 days or less will be administratively granted and an extension of 121 to 180 days must be considered by Council.

The economic impact of the rulemaking is expected to be minimal (less than \$1,000) for all persons involved in the rulemaking, five-year review, and appeal processes. G.R.R.C. administration believes the rules establishing procedures for filing the two new petitions make the most efficient use of staff resources while providing the maximum amount of information to Council in a timely fashion.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Allen Malanowski, G.R.R.C. Economist  
Address: 100 N. 15th Ave., Suite 402  
Phoenix, AZ 85007  
Telephone: (602) 542-2017  
Fax: (602) 542-1486  
E-mail: allen.malanowski@azdoa.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: January 3, 2010  
Time: 10:00 a.m.  
Address: 100 N. 15th Ave., Suite 401  
Phoenix, AZ 85007

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Any material incorporated by reference and its location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 1. RULES AND THE RULEMAKING PROCESS**

**CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL**

**ARTICLE 1. RULES OF PROCEDURE**

Section

- R1-6-102. Meetings  
R1-6-103. Schedule and Filing Deadlines  
R1-6-104. Placing a Regular Rule on the Council Agenda  
R1-6-106. Placing a Final Summary Rule on the Council Agenda  
R1-6-107. Submitting Approved Regular Rules  
R1-6-108. Filing Rules Approved by the Council  
R1-6-109. Returned Rules and Five-year Review Reports  
R1-6-110. Appearance by the Agency  
~~R1-6-112.~~ R1-6-111. Five-year Review Report  
~~R1-6-111.~~ R1-6-112. Oral and Written Comments  
R1-6-113. Rescheduling a Five-year Review Report  
R1-6-114. Extension to File a Five-year Review Report  
R1-6-115. Petition under A.R.S. § 41-1056(I) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal

**ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS**

Section

- R1-6-401. Appeal of an Economic, Small Business, and Consumer Impact Statement

**ARTICLE 5. EARLY REVIEW PETITION**

Section

- R1-6-501. Early Review Petition of a Proposed Rule

**ARTICLE 1. RULES OF PROCEDURE**

**R1-6-102. Meetings**

- A. The Chair, in consultation with ~~the~~ Council, shall set regular meeting dates of the Council for each calendar year by the preceding October 31 and shall post notice of each regular meeting according to the Open Meeting Law.  
B. The Chair or Council may schedule a special meeting to consider any matter it may consider at a regular meeting. The Council shall post notice of a special meeting according to the Open Meeting Law at least ~~48~~ 24 hours before the special meeting.  
C. The Council may recess a regular or special meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.

**R1-6-103. Schedule and Filing Deadlines**

The Chair, in consultation with Council, shall establish for each calendar year, by the preceding October 31, a schedule containing filing deadlines based on the ~~and~~ meeting dates established under R1-6-102 ~~for Council review of.~~

1. Rules submitted or if applicable, resubmitted to the Council including new, amended, repealed, or renumbered rules; and
- ~~2. Rules resubmitted under R1-6-109(1); and~~
- ~~3.~~ 2. Five-year review reports.

**R1-6-104. Placing a Regular Rule on the Council Agenda**

- A. To place a regular rule on the Council agenda, an agency shall deliver to the Council office two rule packages prepared in

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the manner required by this Chapter and the rules of the Office of the Secretary of State. The agency shall ensure that each rule package contains the following items assembled in the following order:

1. Cover letter signed by the agency head specifying:
    - a. The close of record date;
    - b. Whether definitions of terms contained in statutes or other rules and used in the rule are attached;
    - c. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;
    - d. Whether the rule contains a new fee and, if it does, citation of the statute expressly authorizing the new fee;
    - e. Whether the rule contains a fee increase;
    - f. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
    - g. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; ~~and~~
    - h. A certification that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule;
    - i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
    - j. Whether federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law;
    - k. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states; and
    - ~~h-l.~~ A list of all items enclosed.
  2. Notice of Final Rulemaking, required by A.A.C. R1-1-602, including the preamble, table of contents for the rulemaking, and text of each rule;
  3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
  4. Copy of the existing rule if the entire existing rule is not shown as part of the revised text of a rule the agency is amending; and
  5. Copy of definitions of terms, used in the rule, that are defined in statute or another rule, if any.
- B.** In addition to the items specified in subsection (A), an agency shall submit one copy of each of the following:
1. All written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any oral comments received if the agency maintains a written record, transcript, or minutes; if any; and
  2. Materials incorporated by reference, if any; and
  3. Any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact of businesses in other states.
- C.** After a rule is placed on the Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. § 41-1052(C), (D), and (E) and this Chapter and may suggest changes to the agency. After making any change, the agency shall submit the rule package to the Council office under one of the following alternatives:
1. If the agency believes it is likely that the rule package will be approved by the Council without change, it shall submit:
    - a. Four paper copies of the ~~rule package items listed~~ Notice of Final Rulemaking as specified in subsections subsection (A)(2) and the economic, small business, and consumer impact statement as specified in subsection (A)(3), assembled in the order specified in subsection (A);
    - b. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule item in R1-1-105(B)(6) shall be omitted;
    - c. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
    - d. One of the following:
      - i. A computer disk or CD that contains the items listed in subsection (A) and the general and specific statutes authorizing the rule; ~~or~~
      - ~~e-ii.~~ A computer disk or CD that contains the ~~item listed~~ Notice of Final Rulemaking specified in subsection (A)(2) and an electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
  2. If the agency is uncertain whether the rule package will be approved by the Council without change, it shall submit:
    - a. One paper copy of the ~~items listed~~ Notice of Final Rulemaking in subsections subsection (A)(2) and the economic, small business, and consumer impact statement in subsection (A)(3); and
    - b. One of the following:
      - i. A computer disk or CD that contains all the items listed in subsection (A) and the general and specific statutes authorizing the rule; ~~or~~

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e-ii. An electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule.

- D. After a rule is placed on the Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.
- E. If it is necessary for a rule to be heard at more than one Council meeting, the agency shall contact the Council staff to learn which rule-package items the agency needs to resubmit for the later meeting.

**R1-6-106. Placing a Final Summary Rule on the Council Agenda**

- A. To place a final summary rule on the Council agenda, an agency shall deliver to the Council office the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
  - 1. The cover letter described in subsection (B)(1);
  - 2. Four paper copies of the ~~items listed~~ Notice of Final Summary Rulemaking in ~~subsections~~ subsection (B)(2) and the economic, small business, and consumer impact statement through (B)(4), assembled in the order specified in subsection (B)(3);
  - 3. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule ~~item in R1-1-105(B)(6)~~ shall be omitted;
  - 4. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
  - 5. A computer disk or CD that contains all the items listed in subsection (B) and the general and specific statutes authorizing the rule; or
  - 6. A computer disk or CD that contains the Notice of Final Summary Rulemaking ~~item listed~~ in subsection (B)(2) and an electronic copy of all the items listed in subsection (B) and the general and specific statutes authorizing the rule.
- B. An agency shall ensure that the rule package contains the following items assembled in the following order:
  - 1. Cover letter signed by the agency head specifying:
    - a. The close of record date;
    - b. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;
    - c. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
    - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
    - e. A list of all items enclosed.
  - 2. Notice of Final Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble, table of contents for the final summary rulemaking, and text of each final summary rule;
  - 3. Economic, small business, and consumer impact statement that:
    - a. ~~contains~~ Contains the information required by A.R.S. § 41-1055 or a statement that the rulemaking is exempt from this requirement under A.R.S. § 41-1055(D)(2); and
    - b. If applicable, contains an explanation of why repeal of the obsolete rule does not increase the cost of compliance under A.R.S. § 41-1027(A)(3).
  - 4. ~~Concise explanatory statement.~~
- C. In addition to the items specified in subsection (B), an agency shall submit one copy of all written comments received by the agency concerning the proposed summary rule.

**R1-6-107. Submitting Approved Regular Rules**

- A. For a final regular rule placed on the Council's agenda under R1-6-104(C)(2) and approved by the Council or placed on the Council's agenda under R1-6-104(C)(1) and approved by the Council with changes, an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
  - 1. A letter identifying each change made at the direction of the Council. If no changes were directed, no letter is required;
  - 2. One original and three paper copies of the following items assembled in the following order:
    - a. Agency certificate, required by A.A.C. R1-1-105(B); and
    - b. ~~Items~~ Notice of Final Rulemaking listed in R1-6-104(A)(2) and the economic, small business, and consumer impact statement listed in R1-6-104(A)(3) (A)(3);
  - 3. Two copies of the receipt required by A.A.C. R1-1-106; and
  - 4. One computer disk or CD that contains the item listed in R1-6-104(A)(2).
- B. If an agency is unable to deliver an approved regular rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office and arrange to submit the approved rule at a later date.

**R1-6-108. Filing Rules Approved by the Council**

- A. If the Council approves an agency rule a Notice of Final Rulemaking as submitted under R1-6-104(C)(1) or R1-6-106(A)

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or if the Council approves an agency rule as submitted under R1-6-104(C)(2) or Notice of Final Summary Rulemaking and the agency submits the items required by R1-6-107, the Council shall file the original and two copies of the agency's items; two copies of the agency receipt; and the computer disk or CD, with the Office of the Secretary of State. The Council shall include a written notice specifying the Sections approved and the date of Council approval.

- B.** If the Council approves a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement subject to the agency making changes as directed by the Council, and the agency submits the items required by R1-6-107:
1. Council staff shall verify that each change required by the Council was made and file the items with the Office of the Secretary of State as prescribed in subsection (A).
  2. If an agency submits a revised preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.
- C.** Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents for the rulemaking, rule, economic, small business, and consumer impact statement, or materials incorporated by reference after Council approval.

**R1-6-109. Returned Rules and Five-year Review Reports**

- A.** The Council may vote to return a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement under A.R.S. § 41-1052(B), after identifying the manner in which the returned rule-package item does not meet the standards at A.R.S. § 41-1052(C) through (E).
1. The Council may schedule a date for resubmission in consultation with the agency representative.
  2. An agency resubmitting a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement to the Council shall attach to the resubmitted rule-package item a letter that:
    - a. Identifies all changes made in response to the Council's explanation for its return of the ~~rule package~~ rule-package ~~rule-pack-~~ age item,
    - b. Explains how the changes ensure that the ~~rule package~~ rule-package item meets the standards at A.R.S. § 41-1052(C) through (E), and
    - c. Shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
  3. In accordance with R1-6-110, an agency representative shall appear at the Council meeting at which the resubmitted preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement is to be considered.
- B.** The Council may vote to return a five-year review report after identifying the manner in which the five-year review report does not meet the standards in A.R.S. § 41-1056(A)(1) through (9).
1. The Council, in consultation with the agency, shall schedule submission of a revised report.
  2. An agency submitting a revised five-year review report shall attach to the revised report a letter that:
    - a. Identifies all changes made in response to the Council's explanation for return of the five-year review report, and
    - b. Explains how the changes ensure that the five-year review report meets the standards in A.R.S. § 41-1056(A)(1) through (9).

**R1-6-110. Appearance by the Agency**

- A.** A representative of an agency shall appear at the Council meeting at which the agency rule or five-year review report is to be considered to respond to questions and comments by the Council.
- B.** If an agency representative fails to appear at the Council meeting at which the agency rule or five-year review report is considered, the Council ~~shall allow public comment and may:~~
1. ~~Approve the rule or report,~~
  2. ~~1. Reschedule consideration of the rule or report, or,~~
  3. ~~2. Return the rule or report to the agency; or~~
  3. Approve the rule or report after allowing public comment, if any.

**~~R1-6-112.~~ R1-6-111. Five-year Review Report**

- A.** To place a five-year review report on the Council agenda, an agency shall deliver to the Council office two copies of the five-year review report required by A.R.S. § 41-1056. Except as indicated in subsection (B), the agency shall ~~separately discuss and present~~ concisely analyze and provide the following information in the five-year review report in the following order for each rule:
1. General and specific statutes authorizing the rule;
  2. Objective of the rule;
  3. Effectiveness of the rule in achieving the objective;
  4. Consistency of the rule with state and federal statutes and rules, and a listing of the statutes or rules used in determin-

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- ing the consistency;
5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
  6. Agency view regarding current wisdom of the rule;
  7. Clarity, conciseness, and understandability of the rule;
  8. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;
  9. A comparison of the current Estimated economic, small business, and consumer impact of the rule as compared to with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact statement for of the rule; and
  10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states;
  11. If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report;
  12. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective; and
  - ~~10-13.~~ Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule.
- B. If the information regarding any of the items listed in subsection (A) is identical for any group of rules, the agency shall discuss that information in its five-year review report only once for the group of rules.
- C. An agency shall attach the following to each copy of a five-year review report:
1. Cover letter, signed by the agency head, that identifies:
    - a. A person to contact for information regarding the report,
    - b. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(E), and
    - c. Any rule that is not reviewed because the Council rescheduled the review of the rule under A.R.S. § 41-1056(C), and
  2. Copy of the rules being reviewed.
- D. If an economic, small business, and consumer impact statement was prepared on the last making of a rule being reviewed, an agency shall attach one copy of the economic, small business, and consumer impact statement for the rule to the five-year review report.
- E. After a five-year review report is placed on the Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may suggest changes to the agency. After making any change, the agency shall submit to the Council office one paper copy of the five-year review report and one electronic copy of or a computer disk or CD that contains the ~~items listed~~ five-year review report as specified in subsection subsections (A), the cover letter in subsection and (C), and the general and specific statutes authorizing the rules reviewed.
- F. After a five-year review report is ~~placed on the Council agenda~~ filed, an agency may make one request that have the report be moved to the agenda of a later meeting scheduled for no later than 60 days after the request by having the agency head send a written request notice to the Chair that includes the date of the ~~later~~ meeting. After the agency makes a request to have a five-year review report moved, an agency shall address any subsequent requests to the Chair. The Chair may grant or deny a subsequent request at the Chair's discretion.

~~R1-6-111.~~ **R1-6-112. Oral and Written Comments**

- A. Under A.R.S. § ~~41-1052(G)~~ 41-1052(H) a person may submit written comments to the Council about an agency rulemaking within 60 days from Council receipt of the rule. The date of Council receipt of the rule shall be posted on the Council's web site. Council staff shall notify the agency of any written comments received by the Council. An agency may submit a written response to the Council within 15 days of being notified by Council staff of the comment.
- B. A person may make oral comments about an agency rulemaking at a Council meeting.
- C. The Chair may limit the time allotted to each speaker and preclude repetitious comments.
- ~~C-D.~~ A person who makes written or oral comments to the Council shall:
1. Ensure that the comments relate to a final rulemaking filed with the Council ~~rule scheduled on the Council meeting agenda;~~
  2. Cite the particular provision of A.R.S. § ~~41-1052(C)~~ 41-1052(D) through ~~(E)~~ (F) that is the basis for the Council's authority to consider each issue addressed;
  3. State specifically how each issue relates to the particular provision cited;
  4. Tell what other efforts the person made to communicate with the rulemaking agency about each issue; and

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5. If making oral comments, by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting, submit 10 paper copies or one electronic copy of, or a computer disk that contains, any visual aids or written materials supplementing the oral comments to the Administrator of Council staff, who shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking; or
  6. If not making oral comments, by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting submit 10 paper copies or one electronic copy of, or a computer disk or CD that contains, any written comments to the Administrator of Council staff analyst assigned, who shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking.
- ~~D-E.~~ If materials are submitted under subsection (C)(5) or (C)(6) fewer than six business days before the Council meeting, the Council Chair, in the Chair's discretion, shall consider the reason for the untimely submittal, fairness to the rulemaking agency, and the best interests of the state in determining the action to take under A.R.S. § 41-1052.
- ~~E.~~ The Chair may limit the time allotted to each speaker and preclude repetitious comments.

**R1-6-113. Rescheduling a Five-year Review Report**

- A. To request that a five-year review report be rescheduled under A.R.S. § 41-1056(C), an agency head shall submit a letter to the Chair before the report is due but not more than 90 days before the report is due that includes the following information:
1. The Title, Chapter, and Article of the rules for which rescheduling is sought;
  2. Whether the rules were initially made or substantially revised with an effective date that is within the last two years; and
    - a. If substantially revised:
      - i. A description of the revisions,
      - ii. Why the revisions are believed to be substantial, and
      - iii. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules; or
    - b. If initially made, the date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules.
- B. The Chair or the Chair's designee, in the Chair's or Chair's designee's discretion, may grant the rescheduling of a five-year review report if all rules within an Article meet the requirements of this Section.

**R1-6-114. Extension to File a Five-year Review Report**

- A. An agency may obtain an extension of 120 days to file a five-year review report by filing a written notice of extension with the Council before the due date of the report. The agency shall specify in the notice the reason for the extension.
- B. An agency may request one extension of more than 120 days but less than 181 days to file the report by sending a written request to the Chair at least 40 days prior to the due date of the report. The agency shall specify the length of the requested extension and the reason for the requested extension.
1. A request for an extension of more than 120 days but less than 181 days shall be placed on the agenda of a Council meeting scheduled to occur prior to the due date of the report.
  2. Council shall consider the extension request and may grant a request that is greater than 120 days but shall not grant an extension request that exceeds 180 days.

**R1-6-115. Petition under A.R.S. § 41-1056(I) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal**

- A. A person shall file a petition under A.R.S. § 41-1056(I) at least 60 days before the original due date of the five-year review report in which the rule is scheduled to be reviewed. The person filing the petition shall deliver to the Council office one signed original and eight paper copies or an electronic version on a computer disk or CD that contains:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
  2. The name of the person being represented by the person filing the petition, if applicable;
  3. A statement of why the rule is obsolete and should be repealed; and
  4. A statement of how the person is regulated or could be regulated by the rule.
- B. The petition shall not exceed five double-spaced pages and shall be in Arial typeface of no less than 12 point.
- C. The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following Council receipt of the petition. Within 14 days of the date the petition is filed the agency shall file a response to the petition that either:
1. Indicates the agency will consider including the obsolete rule in the five-year review report with a recommendation for appeal, or
  2. Includes a statement of why the rule is not obsolete and should not be repealed.
- D. The Council shall schedule the petition for the next Council meeting as soon as practicable after receipt of the agency's response under subsection (B).
- E. Within seven calendar days after the Council's decision on the petition, the Chair or the Chair's designee, shall send a let-



ter to the affected agency head and the person filing the petition advising them of the Council's decision.

#### ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

##### R1-6-401. Appeal of an Economic, Small Business, and Consumer Impact Statement

- A. A person appealing an agency's final decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(D), shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk or CD that contains; the following:
1. A request signed by the person submitting the appeal, citing the rule or rules being appealed and including the following:
    - a. Name of the agency upon which the appeal is taken;
    - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the appeal;
    - c. Name of the person being represented by the person filing the appeal, if applicable;
    - d. How the person filing the appeal is or may be affected by the agency's final decision made under A.R.S. § 41-1056.01(C); and
    - e. Why the person appealing believes either that:
      - i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact; ~~or~~
      - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; and the impact imposes a significant burden on persons subject to the rule; or
      - iii. Under A.R.S. § 41-1056.01(A)(3), the agency did not select the alternative that imposes the least burdens and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
  2. A copy of the economic, small business, and consumer impact statement being addressed in the appeal; and
  3. The data used by the person appealing to support the reasons listed under subsection (A)(1)(e).
- B. The Council shall notify the affected agency head of an appeal of the economic impact of a rule by 5:00 p.m. of the business day following Council receipt of the appeal. The affected agency head shall deliver to the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- C. The head of an agency whose final decision is being appealed shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk or CD that contains, the following:
1. A memorandum that includes the following:
    - a. Date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
    - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person;
    - c. Reasons why the agency believes that:
      - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact; or
      - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; and
    - d. A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate;.
  2. A copy of the rule being appealed; and
  3. The agency's written summary prepared and published as required by A.R.S. § 41-1056.01(C).
- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. Within seven calendar days after the Council decides whether either or both of the provisions in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision, the reasons for and date of the Council decision, and the action, if any, required by the agency.

#### ARTICLE 5. EARLY REVIEW PETITION

##### R1-6-501. Early Review Petition of a Proposed Rule

- A. A person may file an early review petition with Council after a proposed rule is published in the Register but before the rule is filed with Council as a final rule under R1-6-104.
- B. The person filing the petition shall deliver to the Council office one signed original and eight paper copies or one electronic version on a computer disk or CD that contains:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;

Notices of Proposed Rulemaking

2. The name of the person being represented by the person filing the petition, if applicable;
3. An explanation of how the proposed rule violates any of the criteria in A.R.S. § 41-1052(D);
4. An explanation of why the Council should consider the petition at the proposed rulemaking stage; and
5. An explanation of how the person would be adversely affected by the proposed rule.
- C.** The petition shall not exceed five double-spaced pages and shall be in Arial typeface of not less than 12 point.
- D.** The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following Council receipt of the petition. Within 14 days of the date the petition is filed the agency shall file a response to the petition and deliver to the Council office one signed original and eight paper copies or one electronic version on a computer disk or CD. The agency shall deliver by mail or in person a copy of the response to the Petitioner. The response shall contain:
  1. An explanation of why the proposed rule does not violate any of the criteria in A.R.S. § 41-1052(D);
  2. If applicable, an explanation of why the person would not be adversely affected by the proposed rule; and
  3. An explanation of why the rulemaking should be permitted to proceed to final rulemaking.
- E.** A reply brief is not permitted. Documents and exhibits supporting the petition or response shall only be allowed by a majority vote of the quorum present and upon written request that demonstrates good cause.
- F.** An early review petition filed under this Section does not stay the rulemaking process.
- G.** The Council shall consider the petition at a scheduled Council meeting as soon as practicable after receipt of the agency's response under subsection (D).
- H.** Within seven calendar days after the Council considers the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the Council's decision.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY  
PERMITS AND COMPLIANCE FEES

*Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2010, Ch. 287, § 18. (See the text of § 18 on page 2354.) The Governor's Office authorized the notice to proceed through the rulemaking process on October 28, 2010.*

[R10-163]

**PREAMBLE**

**1. Sections Affected**

R18-14-101  
R18-14-102  
Table 1  
R18-14-103  
R18-14-104  
Table 2  
Table 3  
R18-14-105  
R18-14-108  
Table 2  
Table 4  
Table 5  
R18-14-109  
Table 6  
R18-14-110  
Table 7  
R18-14-111  
R18-14-112  
R18-14-113

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
New Table  
New Table  
Amend  
Amend  
Repeal  
New Table  
New Table  
New Section  
New Table  
New Section  
New Table  
New Section  
New Section  
New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 49-104(C) and 49-203(A)(8)

Implementing statute: A.R.S. §§ 49-104(B)(11), 49-104 (B)(13), 49-241.02(A), 49-242(E), 49-255.01(J) and 49-332(A)

**Notices of Proposed Rulemaking**

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**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 1676, August 27, 2010

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Wendy LeStarge

Address: Department of Environmental Quality  
1110 W. Washington St. (MC 5415B-2)  
Phoenix, AZ 85007

Telephone: (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677)

Fax: (602) 771-4834

E-mail: [lestage.wendy@azdeq.gov](mailto:lestage.wendy@azdeq.gov)

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking revises fees for the aquifer protection permits (APP) and direct use of reclaimed water permits (reuse) and establishes fees for the Arizona Pollutant Discharge Elimination System permits (AZPDES) programs under 18 A.A.C. 9, Articles 1, 2, 3, 6, 7 and 9, as established in 18 A.A.C. 14, "Water Quality Protection Fees." House Bill 2767 (Laws 2010, 2nd Regular Session, Ch. 267) authorizes the Arizona Department of Environmental Quality (ADEQ) to increase fees for APPs, APP annual registrations, and dry well registrations, and to establish fees for AZPDES permits. House Bill 2767 became effective July 29, 2010 and authorizes a one-time rulemaking to increase and establish fees. Any subsequent amendments to these rules will require prior authorization from the Legislature. These fees will replace the General Fund and ensure that these water quality permitting programs are self-sustaining. Under this rulemaking, ADEQ proposes to increase most of the APP and reclaimed water permit fees. The annual registration and dry well fees also will increase. AZPDES program fees will be established for the first time.

Laws 2010, 2nd Regular Session, Ch. 287, § 18 continues the moratorium on rulemaking for fiscal years 2010 - 2011, initiated in Laws 2009, 3rd Special Session, Ch. 7, § 28. ADEQ received authorization from the Governor's Office to proceed with this rulemaking on October 28, 2010.

Historically ADEQ's Water Quality Division had been funded through a variety of state revenue sources to support its major programs of APP, AZPDES permitting, Surface Water Monitoring and Assessment, Safe Drinking Water, and Compliance and Enforcement. In past years, the Water Quality Division received revenues from the Water Quality Fee Fund, the General Fund, the Monitoring Assistance Program, and the Water Quality Assurance Revolving Fund. Even though the APP program has historically charged fees, the fees have never covered the full costs to implement and administer the program. Prior to House Bill 2767, the AZPDES program lacked statutory authority to charge fees.

On July 1, 2010, the operating General Fund was eliminated from ADEQ's budget. In response, ADEQ has implemented numerous cost reduction measures, including personnel reductions. To close a resulting \$5.7 million Department-wide shortfall for the 2010-2011 fiscal year, ADEQ was granted temporary limited authority to increase fees for fiscal year 2010-2011, in Laws 2010, 7th Special Session, Ch. 7, § 5. ADEQ published temporary fees in Notices of Exempt Rulemaking on May 21, 2010. The temporary fee authority ends June 30, 2011. House Bill 2767, in combination with the recent appropriations bills, finalizes a transition in program funding from the General Fund, directly to the regulated entities receiving ADEQ's services.

ADEQ's goal in this rulemaking is to develop water quality protection fees that will sustain the programs without disproportionately impacting any one group of stakeholders, and lessening the impact to small businesses wherever feasible. In advance of this Notice of Proposed Rulemaking, ADEQ met with a broad spectrum of stakeholders to discuss funding issues and to create preliminary drafts of these proposed rules for stakeholders' consideration. ADEQ considered many comments from stakeholders that have been incorporated into the proposed rules as a result.

Through this rulemaking, ADEQ proposes to increase and establish fees to cover the full costs of administering and implementing the APP, reclaimed water, and AZPDES programs. ADEQ projects the fees proposed in this rulemaking will result in approximately \$11.3 million of revenue annually, and will fully support the APP, reclaimed water, and AZPDES programs. ADEQ's ability to raise revenue is limited by the powers and duties granted it through statute, specifically A.R.S. §§ 49-104(C) and 49-203(A)(8).

ADEQ's Water Quality Division is responsible for issuing permits under the APP, reclaimed water, and AZPDES programs. An APP is the state permit required for any facility that seeks to discharge to the aquifer or vadose zone (the zone between the ground surface and any aquifer) (A.R.S. § 49-241.) Facilities that must obtain an APP include wastewater treatment plants, hard rock mines, and power plants (A.R.S. § 49-241(B).) Other facilities may be permitted to discharge under various APP general permits for dry wells, onsite wastewater treatments systems, certain impoundments, and treatment wetlands.

Direct reuse of reclaimed water recycles treated effluent for beneficial uses. Regulations apply to wastewater treatment facilities supplying reclaimed water and to the sites where reclaimed water is applied or used. A reclaimed water individual permit or general permit is required for an owner or operator of a wastewater treatment facility that

generates reclaimed water for direct reuse; an owner or operator of a reclaimed water blending facility; a reclaimed water agent; or a person who directed reuses reclaimed water or gray water.

AZPDES is Arizona's version of the National Pollutant Discharge Elimination System Permit (NPDES) Program, which implements Section 402 of the Clean Water Act. In December 2002, Arizona was delegated authority from the U.S. Environmental Protection Agency (EPA) to implement the NPDES Permit Program. An AZPDES permit is required for a point source discharge of any pollutant to a navigable water under A.R.S. §§ 49-255(2) and 49-255.01(A). Facilities that must obtain an AZPDES permit include wastewater treatment plants, power plants and mines, and stormwater discharges from municipalities, construction projects and industrial facilities.

There are other activities regulated under the AZPDES program that do not necessarily need a permit, including pretreatment programs and biosolids applications. Pretreatment programs regulate wastewater discharges from industrial and commercial facilities that discharge to publicly owned treatment works (POTWs). The pretreatment program is implemented by a POTW that receives industrial discharges. ADEQ is the "Approval Authority," and is responsible for reviewing and approving the elements of a POTW's pretreatment program. Biosolids are defined as "sewage sludge, including exceptional quality biosolids, that is placed on, or applied to the land to use the beneficial properties of the material as a soil amendment, conditioner, or fertilizer" (R18-9-1001(7)). ADEQ regulates the person who applies biosolids to land, but does not currently require a permit for this activity.

Both individual and general permits are issued under the APP, AZPDES, and reclaimed water programs. Individual permits are specific to each facility, and are most appropriate for the regulation of discharges from large or complex facilities and sources with a potential for significant environmental impact. ADEQ charges for reviews of individual permit applications at an hourly rate because review time will vary due to the type of facility and discharge. General permits are intended to regulate discharges from facilities where minimal differences exist from facility to facility and where discharges pose a reduced environmental risk. The general permit establishes the eligibility requirements, and the applicant must conduct proposed activities under pre-set limits using conservative assumptions about the type of facility, or conditions established by the general permit. ADEQ charges flat fees for reviews of general permit applications.

Adequate funding is important to maintain the permitting and post-permitting functions of these vital water quality programs mandated by both federal and Arizona statutes. Without the APP program, there would be no state regulation of discharges to aquifers which serve as significant sources of drinking water. Without an AZPDES program, EPA would implement the NPDES program in Arizona. Ensuring that adequate resources are available to support both programs will facilitate timely permit issuance while protecting public health and the environment.

#### **Section by Section description of changes**

The Article 1 rules were last changed in 2001. The Article 1 rulemaking on fees coincided with the rulemaking on the APP unified permitting system in Chapter 9, Articles 1 through 7, which were comprehensively revised in 2001. Some of the proposed changes in this rulemaking are designed to reflect current implementation of the APP program. Although the main focus of the Water Quality Protection Fees (Article 1) has been the APP fees, these fee rules also apply to reclaimed water permits, approvals for subdivisions, and dry well registrations. As the APP and AZPDES fee structures are similar, ADEQ proposes adding the AZPDES fees to Article 1 rather than creating a separate article.

R18-14-101. Definitions are being updated to amend or delete terms that are no longer used because of other regulatory or statutory changes. The term "complex modification" for non-mining facilities is being amended to reflect current implementation of the APP program. A new definition of "review hours" is added. Two new definitions are added for optional reviews on APP Type 4 general permits (see discussion on R18-14-108). Terms relevant to the AZPDES program were added. As the Water Quality Division charges fees for a variety of services, including permits, the term "water quality protection service" is amended to fully encompass all services for which ADEQ charges a fee.

R18-14-102. Hourly Rate and Maximum Fees for APP and AZPDES Water Quality Protection Services. This Section establishes an hourly rate of \$122 for any water quality protection service for which an hourly rate is charged, including reviews of individual APPs, amendments to APPs, clean closure of a facility with an APP, AZPDES individual permits, pretreatment program approval under the AZPDES program, and individual reclaimed water permits. The hourly rate applies unless a flat fee is prescribed elsewhere in the Article. As House Bill 2767 requires ADEQ to establish a maximum fee for any individual permit, this Section also contains the maximum fees for any water quality protection services for which an hourly rate is charged. The maximum fees for an APP standard modification are amended to recognize the varying complexity of modifications. The maximum fee applies per modification, and is cumulative to \$150,000 for multiple modifications that may be submitted simultaneously. Also, a new maximum fee category for submittals under a compliance schedule is established. In the past, ADEQ has not charged for review of post-permitting submittals unless the submittal was part of an amendment to an individual APP. ADEQ also proposes to charge the hourly rate for an APP determination of applicability (under R18-9-106), because the previous flat fee of \$100 failed to cover the full costs of review. ADEQ also proposes to charge the hourly rate for reviewing proprietary and other reviewed products under R18-9-A309(E). The flat fees for the APP general permits are moved to R18-14-108.

R18-14-103. Initial Fees. This Section establishes initial applicable fees to be paid at the time a person submits a request for a water quality protection service to ADEQ. For a water quality protection service subject to the hourly rate, the applicant must make an initial payment of \$2,000. Subsection (C) states that ADEQ will not review a request for a water quality protection service without being paid any fee due under Article 1, unless the applicant is appealing an outstanding bill.

R18-14-104. Annual Fees for Water Quality Protection Services Subject to Hourly Rate Fee. Annual Registration Fees for individual APPs were established in A.R.S. § 49-242. House Bill 2767 eliminated the statutory fees and authorized ADEQ to establish fees in rule. This Section establishes the annual registration fees based on the amount of discharge or influent allowed in the permit. ADEQ is also proposing annual fees for individual AZPDES permits and approved pretreatment programs, and for individual reclaimed water permits. ADEQ is establishing a reduced annual fee for a newly permitted facility that has not yet been constructed. The language on maximum fees is now included in R18-14-102.

R18-14-105. Fee Assessment and Collection. Under the new definition of “review hours” ADEQ charges for the hours or portions of hours that the project manager and technical review team members spend to review a request for water quality protection services, and if requested by the applicant, the supervisor or unit manager. Additional language is added on billing procedures. The text in subsection (B) is being deleted as ADEQ does not assess a separate fee for annual reclaimed water inspections.

R18-14-108. APP Water Quality Protection Services Flat Fees. This rulemaking repeals the temporary fee increases for Fiscal Year 2011 allowed under Laws 2010, 7th Special Session, Ch. 7, § 5. The temporary fee increases are effective only until June 30, 2011, and these new permanent fees will take their place. Flat fees related to APP general permits are moved from R18-14-102 to this new Section.

Proposed flat fees for the APP general permits and related water quality protection services are in R18-14-108. When APP general permits were created in 2001 in 18 A.A.C. 9, Article 3, ADEQ estimated appropriate fees based on the information then available of staff hours to review permits. As part of this rulemaking, ADEQ re-evaluated the number of hours typically required to review applications and to make permit decisions for the various APP general permits. Thus, proposed fees more accurately reflect the amount of time required for review.

Type 2 and Type 3 general permits each have an assigned fee, with Type 3 general permits taking more review time and consequently being assessed a higher fee. Type 2 and Type 3 general permits are available for both APP and reclaimed water. The existing rule does not distinguish between fees for an APP and reclaimed water Type 2 or Type 3 general permit. In recognition of the differences in complexity between the permits, ADEQ proposes to establish separate fees for an APP Type 2 or Type 3 general permit (Table 4) and the reclaimed water Type 2 or Type 3 general permit (Table 7.) Reclaimed water general permits currently have separate fees in R18-14-110.

Further, after distinguishing reclaimed water general permits from the APP general permits, ADEQ has found that within the APP Type 2 or Type 3 general permits’ review times vary for particular general permits. ADEQ proposes establishing two tiers (standard and complex) for a Type 2 or Type 3 general permit to account for different review times for the same permit type, with complex permits requiring more review time and consequently a higher fee, thus reducing financial impact to applicants for standard permits. In this context, “complex” does not have the same meaning as “complex modification” in R18-14-101, but has the same meaning as ADEQ’s licensing time-frame rules in R18-1-501(9): (“Complex” means an application category that requires significantly more Department resources to review the application than applications processed in a companion standard category due to the size, novelty, complexity, or technical difficulty expressed in the application.”). Within Table 4, all existing Type 2 APP general permits are determined to be standard permits, except for the 2.02 General Permit: Intermediate Stockpiles at Mining Sites (R18-9-C302) which is determined to be a complex permit. All existing Type 3 APP general permits are determined to be standard permits except for the 3.01 General Permit: Lined Impoundments (R18-9-D301) and the 3.04 General Permit: Non-Stormwater Impoundments at Mining Sites (R18-9-D304) which are determined to be complex permits. ADEQ proposes fees for amendments to Notices of Intent for a Type 2 or Type 3 APP general permit that are equal to the applicable renewal fee. ADEQ would not assess the amendment fee until the underlying rules are amended in 18 A.A.C. 9, Article 3 to specify requirements for amendments versus new permits.

Within Table 5, the Type 4 general permit fees are structured to more accurately reflect how the program operates and processes permits. Type 4 general permits are applicable mainly to onsite wastewater treatment facilities (“onsites”).

The previous fees for the Type 4.01 general permits (sewer collection systems) were capped at 300 connections, meaning ADEQ could not recover its full costs when reviewing larger, more complex projects. The new fees for Type 4.01 general permits establish separate fees for individual sewer collection system components. Fees are established for review of individual components with the cumulative total assessment at the maximum fee of \$25,000. This fee structure allows system owners with relatively simple systems to be charged lower fees and for ADEQ to fully recover costs for review of complex systems while also providing the assurance of a maximum fee.

The Type 4.23 general permit is for onsite facilities requiring larger amounts of discharge (up to 24,000 gallons per day.) This permit covers multiple treatment technologies and disposal methods which can be located in multiple locations. ADEQ is establishing a base fee for one permit covering up to three treatment technologies and disposal methods, and up to two onsite wastewater treatment facilities. Each additional technology or location requires an

additional fee for permit coverage, up to the maximum fee. ADEQ also is proposing a fee for the annual report required under R18-9-E323(G)(2).

The remaining Type 4 general permits (4.02 through 4.22) can be distinguished by four types of base systems and 17 treatment technologies and disposal methods. The Type 4 general permit rules establish the criteria for coverage under each permit. Each Notice of Intent to Discharge describes one of the four base systems, and additional treatment technologies or disposal methods may or may not be required depending on physical conditions at the installation location. Typically, an applicant will pay \$1,200 for one of the four base system general permits. If additional treatment technologies or disposal methods are required, each additional permit is \$500, and assessments for multiple disposal technology systems are subject to a maximum fee of \$3,700.

R18-14-108 also establishes fees for two new optional reviews. A courtesy (early) review is available for a Type 4.01 general permit, through which an applicant can submit specifications, design report, and construction drawings at the 60 percent stage and request that ADEQ perform a courtesy review for one-third of the fee applicable to that type of project. This review is intended to provide the applicant the benefit of an early review of the application by ADEQ in order that potential conflicts with the rules are identified early in the review process, and to provide the applicant opportunity to revise if necessary before finalizing the design. This review may reduce the applicant's costs associated with developing the design and make the final review more efficient. The applicant will need to submit the Notice of Intent with completed supporting documentation within 180 days from the first submittal in order to pay the remaining two-thirds balance of the fee. If an applicant submits the Notice of Intent after the 180 days, the full applicable fee is due.

The other optional review is priority review, which is a concept also available on the drinking water design review (R18-14-201). A priority review is available for any Type 4 general permit through which the applicant pays double the applicable fee, in return for ADEQ's commitment to complete the application using not more than 50 percent of the allowable time under licensing time-frames.

R18-14-109. AZPDES Water Quality Protection Services Flat Fees. This Section establishes new fees related to AZPDES General Permits, and the annual report for land applicators of biosolids. ADEQ currently has four AZPDES General Permits:

- Municipal Separate Storm Sewer System (MS4),
- Construction Stormwater,
- Multi-Sector for Stormwater Discharges from Industrial Facilities (mining and non-mining),
- De Minimis (single source and area-wide).

This Section establishes a flexible fee structure to allow future non-stormwater general permits to be developed and assigned to specific categories depending on their complexity. As any draft AZPDES general permit must go through public notice and comment period, subsection (B) requires that a draft permit identify the category to which it will be assigned and the applicable fee. Any interested person would have the opportunity to comment on the fee category assignment. The general permits for Municipal Separate Storm Sewer System, Construction Stormwater, and Multi-Sector for Stormwater Discharges from Industrial Facilities are categorized in Table 6. The De Minimis general permit is categorized under Non-Stormwater Discharges as follows:

- Single Source is Level 1A,
- Area-wide is Level 1B.

By law, ADEQ issues AZPDES permit for a maximum of five years. Every five years, facilities that intend to continue to discharge must reapply for permit coverage. Unless the permittee terminates coverage by filing the required notice of termination, annual fees are due for the coverage under the general permit.

The Construction and Multi-Sector stormwater general permits allow for "co-permittees" to apply for coverage where there may be more than one person in control of a facility or discharge activity. One common example under the Construction general permit is where multiple homebuilder construction companies are in control of a single development. Under the Multi-Sector general permit, co-permittees may exist at an airport where tenant airlines and refueling companies operate, all requiring permit coverage. Under the "co-permittee" situation, each entity pays a fee proportional to the amount of acreage under their control.

R18-14-110. Reclaimed Water Flat Fees creates separate flat fees for the reclaimed water general permits. Previously the fees for Type 2 and 3 reclaimed water general permits were the same as the APP Type 2 and 3 general permits in the existing R18-14-102(C)(6). ADEQ's experience suggests there is a need for flexibility on the fees charged for future general permits on reclaimed or gray water. Also, similar to the APP Type 2 and 3 general permits, there are differences in complexity and review time within the reclaimed water Type 2 or Type 3 general permits. ADEQ is proposing two tiers (standard and complex) for a Type 2 or Type 3 general permit. "Complex" has the same meaning from ADEQ's licensing time-frame rules in R18-1-501(9) ("Complex" means an application category that requires significantly more Department resources to review the application than applications processed in a companion standard category due to the size, novelty, complexity, or technical difficulty expressed in the application."). As listed in Table 7, all existing Type 2 reclaimed water general permits are determined to be standard permits, except for the Direct Reuse of Class C Reclaimed Water (R18-9-716), which is determined to be a complex permit. All existing Type 3 reclaimed water general permits are determined to be standard permits except for Gray Water (R18-9-719),

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which is determined to be a complex permit. ADEQ proposes fees to amend the Notice of Intent for a Type 2 or Type 3 reclaimed water general permit that are equal to the applicable renewal fee. ADEQ would not assess the amendment fee until the underlying rules are amended in 18 A.A.C. 9, Article 7 to specify requirements for amendments versus new permits.

R18-14-111. Other Flat Fees. This Section identifies fees for other water quality protection services that are not directly related to an APP or AZPDES permit. House Bill 2767 authorizes ADEQ to establish fees for dry wells registrations, which had been set at \$10 in A.R.S. § 49-332. ADEQ is also establishing fees for the transfer of dry well registration. ADEQ is increasing the fees for subdivision approvals, and is tiering the fee structure for subdivisions similar to 18 A.A.C. 5, Article 4 (Subdivisions) to account for the differences in subdivision size and system complexity.

R18-14-112. Implementation. The new fees will be applicable to water quality protection services on the effective date of these rules. On the effective date, applicants with a request for a water quality protection service subject to an hourly rate in process (such as an individual permit application or pretreatment program revision) will pay the new hourly rate for review work that is performed on or after the effective date. As the underlying rules for AZPDES do not inform when the applicable fee is due, this Section establishes that the applicable fee is to be paid at the time a person submits a request for a water quality protection service as specified in the underlying AZPDES general permit or in the AZPDES rules. In order to lessen the impact to stakeholders for this fiscal year, ADEQ will seek an effective date no earlier than July 1, 2011.

Persons who have applied for coverage under an AZPDES general permit before the effective date will not have been assessed the initial fee for filing the Notice of Intent, but will be required to pay any applicable annual fees for subsequent years of coverage unless a notice of termination is filed. ADEQ is preparing to re-issue the Multi-Sector general permit, which has been administratively continued since it expired in 2005. ADEQ issued the draft of the Multi-Sector general permit for comments under R18-9-A908; the comment period ended October 25, 2010. ADEQ expects to issue the final permit before the end of the calendar year. Once issued, applicants will have 120 days to file a Notice of Intent, but will not have to pay the initial fee as such fees are now only proposed and will not yet be in effect. A facility will be assessed the applicable annual fee for coverage under the Multi-Sector general permit unless the facility has filed a notice of termination.

R18-14-113. Annual Report. ADEQ will publish an annual accounting of Water Quality Fee Fund revenue and expenditure activity for the prior fiscal year.

**6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Information submitted to the Legislature as required under A.R.S. § 49-241.02(E). Arizona Department of Environmental Quality, Water Quality Division (2009) (available at ADEQ's web site: <http://www.azdeq.gov/function/laws/draft.html>).

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**  
**Executive Summary**

The goal of this rulemaking is to establish fees for the APP and the AZPDES permit programs sufficient to cover the full costs to implement and administer the programs. Historically, the state General Fund has been used to fund the entire cost of the AZPDES program, at no cost to the regulated community, and to cover the indirect costs of the APP program. As recent as fiscal year 2007, the General Fund accounted for 26 percent of the total Water Quality Division budget. Effective in fiscal year 2011, the state General Fund has been eliminated from the ADEQ budget and the subsequent shortfall is being reconciled through budget reductions, temporary use of other funds, and increased fees. As the General Fund has been reduced, ADEQ has been able draw on federal funds until water quality protection fees are established. The Water Infrastructure Authority has also provided short-term access to infrastructure monies but has informed the agency this is not sustainable beyond fiscal year 2012. Notwithstanding aggressive budget reductions that resulted in loss of staff through reductions in force and layoffs, fee increases will be necessary to cover the full cost to implement and administer the programs.

While the agency recognizes that the regulated community will be impacted by this rulemaking, House Bill 2767 directs ADEQ to develop a fee structure sufficient to support the water quality permitting program in the absence of General Fund. ADEQ's goal in this rulemaking is to develop fees that will sustain the programs and avoid disproportionate impact on any one group of stakeholders, that are also based on conservative assumptions of revenues in light of the one-time rulemaking limitation in House Bill 2767. The rulemaking attempts to set a fee representative of the actual cost of providing the service – (e.g., issuing and managing a permit). Under these proposed fees, the regulated community pays for only those water quality protection services they need. The impact of the increases is spread across all sectors of the regulated community and no one sector should be disproportionately impacted.

ADEQ believes that the current staffing levels represent the minimum necessary to process the existing and future workload efficiently and within applicable licensing time-frames. ADEQ does not anticipate the programs or associated staffing levels to expand as a result of this rulemaking, but believes it needs the current level of staffing to effectively implement the programs.

The rulemaking addresses the shortfall created by the elimination of the General Fund and contains the following categories of fees:

- Hourly-based fees for individual permits or water quality protection services subject to variability in review time;
- Flat fees for water quality protection services subject to predictable average times for review, such as for general permits; and
- Annual fees to cover the costs of administering permit coverage.

ADEQ's annual expenses for the Water Quality permitting programs are estimated at \$11.3 million: APP and reclaimed water at \$7.3 million and AZPDES at \$4.0 million. These proposed new and revised fees are proposed to generate approximately \$11.3 million in annual revenues, and would become effective for Fiscal Year 2012 (beginning July 1, 2011.) By achieving a sustainable balance between revenues and expenditures, the regulated community is avoiding the potential impacts of failure of the Water Quality Fee Fund and disruptive interruptions in service that would result from fund insolvency. Under the Clean Water Act and federal implementing regulations, should ADEQ no longer be able to staff and operate the AZPDES permitting program, EPA would be forced to rescind the delegation and resume management of the program for the state, resulting in increased costs to Arizona business who must then deal with the EPA rather than ADEQ. ADEQ's inability to fully staff the APP program would also result in delays in issuing legally required permits, negatively impacting the state's economy and potentially jeopardizing groundwater quality.

Adequate and sustainable revenues to operate ADEQ's water quality permitting programs will protect both surface water and groundwater quality in the state and facilitate timely issuance of permits. Well-functioning and efficient water permitting programs protect public health and the environment while supporting a favorable business climate.

The regulated community will realize incremental fee increases for APPs, permit amendments, annual registration fees, registering dry wells, and obtaining certificates of approval of sanitary facilities. Those facilities or activities permitted to discharge to surface waters will have to pay AZPDES fees for the first time. ADEQ believes the benefits to the environment and the regulated community by having adequate and sustainable funding to support the Water Quality Division programs that ensure timely ADEQ permitting and oversight outweigh the increases to and establishment of permit fees. To reduce and mitigate the impacts of the new and increased permitting fees, ADEQ has proposed to:

- Develop tiered fees within both general permits and individual permits that recognize distinctions in both complexity and varying levels of effort to issue and maintain the permits;
- For AZPDES general permits, assess an annual fee that allows the costs of developing, issuing and servicing the permit to be distributed over the five year term of the permit;
- Reduce annual fees for facilities that obtain permit coverage but are not yet constructed in recognition of ADEQ's lower level of effort to service the permit, primarily data management and billing;
- Develop new general permits for specific facilities or activities that are similar in nature and can be effectively regulated under a streamlined general permitting process;
- Establish a courtesy review for during preliminary design of sewer collection systems that will provide the applicant feedback early in the design stage to resolve issues before final submittal; and
- Create a separate fee for a small onsite subdivision of 10 lots or less.

### **Background**

A.R.S. § 49-210 established the Water Quality Fee Fund (WQFF). Pursuant to A.R.S. § 49-203(A)(8), the Director of ADEQ shall assess and collect fees to cover, reasonable costs to revoke, issue, deny, modify or suspend permits issued pursuant to Chapter 2. House Bill 2767 establishes that all fees collected and deposited in the WQFF are to be used only for purposes prescribed in statute to fund ADEQ. A.R.S. § 49-210(E), as amended by House Bill 2767, states in part: "any fee, assessment or other levy that is authorized by law or administrative rule and that is collected and deposited in the Water Quality Fee Fund shall be held in trust. The monies in the fund may be used only for the purposes prescribed by statute and shall not be appropriated or transferred by the Legislature to fund the general operations of this state or to otherwise meet the obligations of the general fund of this state."

Water quality program fees were last revised in 2001 to address a negative deficit between revenues and expenditures. As with this proposed rulemaking, changes included adjusting the hourly rate, establishing flat fees for general permits based on level of effort to issue, adjusting fee caps, revising billing procedures and establishing fees for additional water quality protection services. Two major differences with this proposed rulemaking include the legislative authority to recover total program costs under the APP program and to charge fees for the AZPDES program for the first time. Prior to passage of House Bill 2767, ADEQ had been statutorily prohibited from assessing fees for indirect costs for the APP program and from charging any fees for the AZPDES program.

The revised \$122 hourly rate for permit application review serves as the basis for all the fee calculations. Flat fees are set to cover the costs of application review associated with the applicable water quality protection service, such as an



authorization under a general permit, and ongoing permit administration for the life of the permit. To calculate the fees, the total hours devoted to the review time and permit administration are multiplied by the \$122 per hour rate. Annual fees were calculated based on the typical number of staff hours to maintain a permit and cover billing, inspections and data management. This rulemaking provides for three types of annual or renewal fees:

- Annual registration fees for individual and area-wide APP permits;
- Annual fees for AZPDES individual and general permits, and the pretreatment program; and
- Renewal fees for APP and reclaimed water general permits.

The hourly rate of \$122 per hour is based on a methodology, previously applied by ADEQ's Air Quality Division during its fee rulemaking in 2007. The methodology establishes the hourly rate necessary to support the full costs of a full-time project manager or technical review staff. Within the Water Quality Division, project managers and technical staff bill applicants for time spent processing a request for a water quality protection service and producing a water quality permit.

A full-time employee can work a total of 2080 hours per year (52 weeks at 40 hours per week). For purpose of establishing the hourly rate, the staff time is broken down into two major categories: program time and non-program time. Non-program time includes leave time and holidays, lost time due to employee turnover; training, and time spent performing work-related activities that are not directly related to the processing of an application. Program time includes activities that are directly related to the program and is further divided between billable and non-billable time. Billable program time includes review hours that are directly billable to an application. Non-billable program time includes activities that benefit the program such as program development, customer service, and staff meetings.

The hourly rate analysis begins with a 2080 hour work year and subtracts out a portion of the non-program time and the non-billable program time, totaling approximately 33 percent of the work year. As a result, fees must cover 67 percent of the employee's time or approximately 1400 hours per year.

The hourly rate is calculated from the costs of providing the service (the 1400 hours for the employee) plus other costs associated with providing the service such as costs for oversight (i.e., time spent by the unit supervisor and support staff); operating expenses (i.e., supplies, office space, computer, etc.); indirect costs (i.e., administrative support, payroll, technology support, etc.); and employee related expenses (ERE, i.e. insurance, retirement). Dividing this total cost per employee by the actual billable hours, the resulting rate is \$122 per hour.

ADEQ believes its \$122 hourly rate is comparable to private sector rates and the rates charged by other divisions and agencies who are engaged in similar levels of technical review and project management. For comparison sake, the private sector consultant rate for similar work activities charged by ADEQ's expedited permit consultants typically ranges from \$130 to \$200 per hour. Using this methodology, the Air Quality Division charges \$133.50 per hour; Waste Program Division charges between \$127 and \$139 per hour and the Arizona Department of Water Resources, using the same rate calculation methodology, is proposing to charge \$118 per hour.

Permit fees (both hourly rate and flat) also support permit staff (project manager and technical reviewers) and a portion of the administrative and managerial staff that assist and direct the permit staff. Annual fees support Water Quality Division administration, billing, permit compliance and inspections, data management, and database development staff and activities.

#### **Estimated Costs and Benefits to ADEQ and other State Agencies**

With this rulemaking, ADEQ is proposing to increase fees such that water quality protection service revenues will match the budgeted costs for providing these services. Project managers and technical review staff in both the APP and AZPDES programs will be billing their time at the new hourly rate. This will recover 67 percent of total costs for each billable FTE. Revenue from hourly rate fees is estimated to generate roughly 35 percent of the needed water quality permitting program revenues.

An additional 25 percent of program revenues will be generated through the collection of flat fees for general permits, subdivision approvals, dry well registrations and other miscellaneous water quality protection services. ADEQ set the flat rate fees based on an estimate of time to develop, process applications and administer permits. For the APP program, ADEQ has nearly 10 years of time tracking data upon which to base those estimates. The proposed AZPDES flat fees also establish a fee structure for existing and future AZPDES general permits based on:

- Population, amount of acreage disturbed, or amount of acreage subject to discharge;
- Amount of time required to develop general permit;
- Amount of time required to process the Notice of Intent or application;
- Amount of time required to administer the permit over five years (data management, inspections, reviewing reports/pollution prevention plans, developing database applications.)

The remaining 40 percent of program revenues will be generated through annual registration and maintenance fees for individual permits which will support the administration of the programs as well as compliance, inspections and data management. This category of revenues will also support the project manager/technical review staff time not recoverable (33 percent) through the hourly rate.

ADEQ will incur expenses to implement the proposed rules. ADEQ is in the process of improving and expanding its existing software programs for time tracking and invoicing to include the AZPDES program. ADEQ is also expand-

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ing its development of web-based portals to offer the regulated community the ability to apply and pay for some permit applications online. Such web-based applications will require modifications to underlying databases which track applications for licensing time-frames and billing purposes.

ADEQ anticipates an increase in revenues from these rule changes that will be sufficient to efficiently and effectively operate its water quality permitting programs and while ensuring the solvency of the WQFF.

Other state agencies that are required to obtain water quality permits will not be affected by the fee increases because A.R.S. §§ 49-104(C) and 49-203(A)(8) explicitly exempts state agencies from paying fees for ADEQ permitting services and inspections.

**Entities Directly Affected**

Applicants and permittees of the APP, reuse, and AZPDES permitting programs will be affected by these proposed rules. Permittees include businesses, individuals, political subdivisions, federal agencies, and non-profit organizations. Other entities impacted by the rule include consumers and the general public. This rulemaking does not directly impact the fees of delegated entities. R18-14-107 establishes authority for counties or other local governments to charge fees for implementing delegated water protection programs.

ADEQ anticipates that this rulemaking will impact nearly 35,000 permitted facilities or activities, as well as an unknown number of future facilities or activities. The approximate breakdown of current permits, by program and type, is shown in the table below. Individual APPs are issued for the life of the facility and require annual registration fees. Reclaimed water permits also are issued for the life of the facility, but have to be renewed every five years. Type 2 and Type 3 general permits are issued for the life of the facility but have to be renewed on a varied schedule ranging from two to seven years. Type 4 general permits are issued for the life of the facility. Certificates of Sanitary Facilities are issued prior to a developer seeking a public report from the Department of Real Estate to sell residential lots.

Permits under the AZPDES program are generally issued for five years. The number of facilities or activities covered under a general permit (e.g., construction, de minimis) will vary with economic activity making it difficult to estimate actual number of permits in any given year or over time. The introduction of new fees adds further uncertainty to the projected number of AZPDES permits and thus revenues derived in the coming years. This table represents an estimate of the range of AZPDES permits possible over a five-year period.

Breakdown of Current Permits by Program and Permit Type

APP/Reuse Program	No. of Permits	AZPDES Program	No. of Permits
Individual Permits	450	Individual Permits	160
<b>General Permits</b>		<b>General Permits</b>	
Type 2	500	Construction	5,000-20,000
Type 3	300	Multi-sector	5,000-10,000
Type 4	3,000	De Minimis	250-1,000
Certificates of Sanitary Facilities	1,200	General and Individual MS4	50
Totals	5,500	Totals	12,000-30,000

For some entities, the increased cost will be the incremental increase of the APP and reuse fees. For other entities, new costs will be incurred for AZPDES permits for which fees were not assessed before. Other entities will require permit coverage under both programs and will incur both APP and APZDES fees.

The table below shows the types of permits that might be required for several major types of permittees. The relative impact of the fees on those various permittees is discussed below.

	Land Development Industry	Privately Owned Utilities	Industrial Facilities	Mining	Political Subdivisions	Power Plants
<b>Aquifer Protection Permits</b>						
Individual		X	X	X	X	X
Type 2 General Permits		X	X	X	X	X
Type 3 General Permits			X	X	X	X
Type 4.01 General Permit	X	X			X	
Type 4.02-4.23 General Permits	X	X	X	X	X	X
<b>Reuse Permits</b>						
Individual		X	X		X	

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Type 2 General Permits	<b>X</b>	<b>X</b>			<b>X</b>	
Type 3 General Permits		<b>X</b>			<b>X</b>	
<b>AZPDES Permits</b>						
Individual		<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
General Permits Construction	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Multi-Sector			<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
General and Individual MS4					<b>X</b>	
<b>Other</b>						
Dry wells	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Certificate of Sanitary Facilities	<b>X</b>					

**Estimated Costs and Benefits to Political Subdivisions**

Political subdivisions, mainly municipalities, will likely be the most impacted by this rulemaking because they typically own or operate more large facilities and conduct more activities requiring permit coverage. Many municipalities (and some political subdivisions) operate wastewater treatment facilities (WWTPs), which require an individual APP. In addition, wastewater treatment facilities often have dry wells and storage impoundments which require Type 2 and 3 APP general permits. Many treatment facilities also seek classification for reuse purposes and/or become reclaimed water agents. ADEQ has proposed incremental increases in fees for each of these permits. The annual registration fees are based on design flow of the facility. The greater the design flow generally requires a greater level of effort by staff to inspect, manage data and administer the permit. With this rulemaking and in recognition of the rapid downturn in the economy, facilities that have obtained permit coverage but have not yet completed construction will be assessed a reduced annual fee that represents only the costs of permit administration – data management and billing, but not inspections.

Larger communities will typically have larger facilities and therefore will have higher annual registration fees. Over half of the individual permits in both the APP and AZPDES programs are for WWTPs that are designed to discharge more than one million gallons per day (MGD). In addition to the APP requirements for POTWs, if there is a discharge to surface waters, an individual AZPDES permit is also required. The AZPDES program has additional requirements under the Clean Water Act. The pretreatment program, under Section 503 of the Clean Water Act, is required for POTWs exceeding five MGD or for those POTWs where certain types of industries (e.g., categorical industrial users) discharge to the POTW. Over 25 percent of the individual AZPDES permits for WWTP are greater than five MGD. Coverage under the AZPDES Multi-Sector general permit (MSGP) for stormwater discharges from industrial facilities is required for large POTWs (sector T), and political subdivisions also often operate landfills (sector L), airports (sector S), and other facilities that require coverage under the AZPDES MSGP.

Political subdivisions conducting construction projects that disturb greater than one acre of ground (or are part of a larger plan of development) also require coverage under the AZPDES Construction Stormwater general permit (CGP). The AZPDES Municipal Separate Storm Sewer System (MS4) Permits, both individual and general permits, are specific to political subdivisions.

Many facilities with individual AZPDES permits also have individual APPs. While the rulemaking proposes annual fees for individual AZPDES permits, in order to mitigate financial impacts of increased fees, these annual fees are based on staff efforts related solely to additional AZPDES program requirements. For example, the ADEQ's costs for a basic inspection for a WWTP facility having both an APP and AZPDES permit will be covered under the annual registration fee for the APP. The annual fee for AZPDES will cover activities such as data review specific to the AZPDES permit, including pretreatment data or whole effluent toxicity testing data, or additional inspection time needed at the facility for one or more AZPDES permits (e.g., under the MSGP permit, construction permit or biosolids program).

Communities paying for AZPDES permits for the first time, especially those that rarely or never discharge, may be inclined to forego AZPDES permit coverage. Those communities will have to balance the risk of not having a permit against the need to discharge in unforeseen or emergency situations – without a permit. The penalties for discharging without a permit can reach \$25,000 a day. In an effort to reduce costs to communities who may wish to maintain coverage, ADEQ has proposed developing a series of AZPDES general permits for discrete types of discharges. As general permits, the initial and annual fees would be lower than those for an individual permit. For example, ADEQ is considering a general permit for small POTWs or WWTPs (less than one MGD) that discharge to ephemeral waters, effluent dependent waters or to non-domestic water source canals. ADEQ estimates the annual cost to a permittee for such a general permit would be \$2,000, with the five year cost, after annual fees, of \$10,000. By contrast, the estimated cost to the same small POTW or WWTP for ADEQ to issue an individual permit would likely be in the range of \$15,000 - \$20,000. The individual permit would also require annual fees for AZPDES specific activities.

Some communities also require permit coverage for a variety of other types of activities including discharges from groundwater remediation projects or discharges of groundwater for a host of environmental enhancement projects.

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ADEQ is also considering development of aquifer protection general permits for some of these types of discharges. The cost to issue an individual permit for APP for these types of discharges could be \$20,000 to \$30,000 and AZPDES coverage might be \$15,000 to \$20,000. Coverage under an APP general permit, good for five years, would be in the range of \$1,500-\$7,500 and the general permit under AZPDES program would be in the range of \$1,250-\$1,500 per year or \$6,000-\$7,500 for a five-year permit. This represents a substantial potential savings to the regulated community.

Another water quality protection service under consideration is an AZPDES general permit for emergency discharge authorization as shown in Table 6 of the proposed rules. The proposed cost of the general permit is to cover staff time for activities including public notice, pre and post-discharge monitoring and data review for discharges, on a short-term, immediate basis. The future general permit will allow an emergency discharge in certain circumstances for a facility that may have otherwise elected to forego AZPDES permit coverage.

**Estimated Costs and Benefits to the Regulated Community (other than political subdivisions)**

Other sectors of the regulated community will also be impacted by this rulemaking. As with political subdivisions, those entities requiring APPs will experience incremental increase of costs for permits, amendments and annual registration fees. Those having discharges to surface waters will have to pay AZPDES permit fees for the first time. ADEQ believes the benefits to the environment to ensure proper permitting and oversight through inspections and data management, outweigh the increase in permitting fees.

Following POTWs, privately-owned wastewater treatment facilities are the next largest group of permittees currently within the APP and AZPDES programs. While the majority of POTWs tend to be one MGD in permitted capacity or greater, 88 percent of privately-owned WWTPs have design capacities of less than one MGD. In general, the smaller the facility, the lower the fees due to smaller discharges and lack of complexity. Many of the AZPDES requirements for POTWs, such as pretreatment, are not required for privately-owned facilities. Inspections of privately-owned facilities will be covered under the APP annual registration fee. Annual fees for AZPDES permits are set to cover AZPDES-specific activities not already covered under the APP annual registration fee including data management and billing. Privately-owned WWTP will also benefit from the future development of new general permits for smaller WWTPs with discharges to certain types of receiving waters. As with the POTWs, privately-owned WWTPs who may have obtained permit coverage but have not yet completed construction due to any number of reasons, will also be assessed a reduced annual fee that represents only the costs of permit administration – data management, billings, but not inspections.

The establishment of fees for AZPDES general permits will affect a broad cross-section of the business community including homebuilding, steam-electric power plants, hard rock and sand and gravel mining facilities and many industrial sectors. Given the large number of permittees requiring construction, multi-sector and de minimis permit coverage, ADEQ is able to keep the costs of these permits low. The fees for the construction and multi-sector stormwater general permits are tiered to recognize distinctions in permit complexity with fees increasing based on the amount of acreage disturbed.

The proposed rulemaking will impact land developers as it contains new flat fees for issuing certificates of approval of sanitary facilities. The new fee covers review time for this service which is one of the final steps toward receiving a public report from the Arizona Department of Real Estate to sell residential lots. In general, the fees for this review doubled in conformance with the new hourly rate. Subdivisions served by onsite wastewater systems and “dry-lot” subdivisions where no water is provided, require significantly more time to review and are assessed a higher fee. To mitigate impacts to smaller development projects, ADEQ did create a separate fee for a small onsite subdivision of 10 lots or less. For subdivisions of 11 lots or more, the fee is incrementally applied to each 50 additional lots. The proposed rule also establishes a separate fee for condominium subdivisions.

The rulemaking also revises fees for onsite wastewater treatment facilities. The current rule lists 22 Type 4 general permits for treatment systems, treatment technologies and disposal methods for systems discharging less than 3,000 gpd. The proposed rulemaking clarifies that each location under a Notice of Intent must include one of four base treatment systems: a septic tank, composting toilet, vault or mound system. The cost for the base treatment system is set to cover the average review time for these base systems. For an additional fee, extra treatment technologies or disposal methods added to the base system, and are assessed an incrementally higher fee in recognition of the additional review time required for more complex systems. The Type 4.23 general permit is for onsite facilities with larger amounts of discharge (up to 24,000 gallons per day.) This permit allows multiple treatment technologies and disposal methods that may be placed in multiple locations on a particular site. ADEQ is retaining its current base fee, which includes coverage of up to three treatment technologies and/or disposal methods and up to two onsite wastewater treatment facilities at the site, and establishes a maximum fee. Each additional treatment facility, treatment technology or disposal method requires an additional fee, in recognition of the additional review time required due to the increased system complexity. ADEQ also is adding a fee for the annual report required under R18-9-E323(G)(2) which covers staff time to review.

**Potential Impacts to Small Businesses**

State law requires agencies to reduce the impact of a rule on small businesses when legal and feasible. ADEQ considered each of the methods prescribed in A.R.S. §§ 41-1035 and 41-1055(B) for reducing the impact of this rule on

small businesses: (1) exempt them from any or all rule requirements, (2) establish performance standards that would replace any design or operational standards, or (3) institute reduced compliance or reporting requirements, such as establishing less stringent requirements, consolidating or simplifying them or setting less stringent schedules or deadlines.

To reduce and mitigate the impacts of the new and increased permitting fees, ADEQ has proposed to:

- Develop tiered fees within both general permits and individual permits that recognize distinctions in both complexity and varying levels of effort to issue and maintain the permits;
- For AZPDES general permits, assess an annual fee that allows the costs of developing, issuing and servicing the permit to be distributed over the five year term of the permit;
- Reduce annual fees for facilities that obtain permit coverage but are not yet constructed in recognition of ADEQ's lower level of effort to service the permit, primarily data management and billing;
- Develop new general permits for specific facilities or activities that are similar in nature and can be effectively regulated under a streamlined general permitting process;
- Establish a courtesy review for during preliminary design of sewer collection systems that will provide the applicant feedback early in the design stage to resolve issues before final submittal; and
- Create a separate fee for a small onsite subdivision of 10 lots or less.

For the APP annual registration fees, the smallest dischargers will be assessed the largest increase, by percentage, due to the fact that annual registration fees were originally set in statute in 1990 and have not changed for 20 years. The current annual registration fees for smaller discharges (less than 100,000 gpd) are inadequate to support post-permitting activities. The fee increase for the smallest dischargers is necessary to support the staff effort necessary to maintain the permit. The annual registration fees for the other categories of dischargers (greater than 100,000 gpd) have also been annualized as well to spread the costs and financial impacts to maintain the permit over the life of the permit.

Small privately-owned wastewater treatment facilities may be more impacted by the new AZPDES fees than other small businesses as they tend to serve smaller communities and lack the economies of scale to offset cost increases.

The availability of general permits may reduce the impact to small businesses under all three Water Quality programs. General permits should be expected to reduce costs and increase regulatory certainty for the regulated community because applicants for coverage are assessed a fixed fee rather than an hourly rate for permit processing. While being protective of the environment, general permits tend to be easier to apply for and include less monitoring and reporting requirements than individual permits and provide assurances to the regulated community that everyone seeking coverage under the permit is being held to the same standards. ADEQ has also attempted to make the impact of the fees more equitable by creating tiers within the general permits. For example, for the Type 2 and Type 3 APP and reuse general permits, ADEQ has tiered these permits in recognition of the complexity of certain applications and the greater level of effort to process those applications. ADEQ will charge a higher fee for just those more complex permits, providing a more equitable system for all permittees. The organization of the tiered flat fees for general permits allows flexibility for the creation and use of potential future general permits. In addition, for the AZPDES program, the general permits require an annual fee that allows the costs of developing, issuing and servicing the permit to be distributed over the five year permit term.

Other methods implementing the statutory objectives of this rulemaking that might reduce the impact on small businesses or be less costly or intrusive would not be feasible. ADEQ will continue to explore ways to moderate the impacts of fees to small businesses and all members of the regulated community.

### **Consumers and Public**

ADEQ expects a minimal impact to consumers and the general public. Although some permittees may absorb the higher cost of doing business, others may pass on the higher costs to consumers, depending on market conditions. Adjusting revenue streams for the Water Quality Division facilitates timely issuance of water quality permits to further improve water quality with appropriate permit conditions. Adequate staffing levels for inspections, compliance, and enforcement increase incentives for compliance through regular inspections and create a level regulatory environment for all business. These efforts help to reduce unpermitted discharges from regulated sources, which in turn prevent adverse health effects that cost the public in medical care and lost productivity, and environmental degradation.

### **House Bill 2260**

House Bill 2260 (Laws 2010, 2nd Regular Session, Ch. 287) amended A.R.S. § 41-1055, requiring that the economic, small business and consumer impact summary of any rulemaking include identification of: (1) the conduct and its frequency of occurrence that the rule is designed to change; (b) the harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not change; and (c) the estimated change in frequency of the targeted conduct expected from the rule change.

ADEQ's annual expenses for the Water Quality permitting programs are estimated at \$11.3 million. Historically, the state General Fund supplied nearly 40 percent of the overall WQ permitting program budget (including 100 percent of the AZPDES program budget). Without new and increased fees to replace the loss of the general fund, the WQFF

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will not be able to sustain revenues to support the program. The AZPDES delegation from EPA would be in jeopardy and business could face increased costs from dealing with the federal government for these permits. Insolvency of the WQFF will result in ADEQ's inability to fully staff the APP and reclaimed water programs, which would result in delays in issuing legally required permits, negatively impacting the state's economy and potentially jeopardizing groundwater quality. The fee structure proposed with this rulemaking should generate approximately \$11.3 million. By achieving a sustainable balance between revenues and expenditures, the regulated community avoids the potential impacts of failure of the WQFF and disruptive interruptions in service that would result from fund insolvency.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Wendy LeStarge  
Address: Department of Environmental Quality  
1110 W. Washington St. (MC 5415B-2)  
Phoenix, AZ 85007  
Telephone: (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677)  
Fax: (602) 771-4834  
E-mail: [lestage.wendy@azdeq.gov](mailto:lestage.wendy@azdeq.gov)

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

ADEQ has scheduled oral proceedings to receive oral comments on the rules, in accordance with A.R.S. § 41-1023; the time, place, and location of the hearings are listed below:

Date: January 4, 2011  
Time: 1:00 p.m. to 4:00 p.m.  
Location: Pima County Public Library  
101 N. Stone Ave., Lower Level Conference Room  
Tucson, AZ  
Nature: Oral Proceeding  
Date: January 5, 2011  
Time: 1:00 p.m. to 4:00 p.m.  
Location: Department of Environmental Quality  
1110 W. Washington St., Room 3175 A & B  
Phoenix, AZ 85007  
Nature: Oral Proceeding

Written, faxed, or e-mailed comments may be made with the contact person listed in item 4. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m. Wednesday, January 5, 2011. Persons with a disability may request a reasonable accommodation by contacting the Department's coordinator, Trisha Garland, at (602) 771-4794 (voice) or 1-800-367-3839 (TDD Relay). Requests should at least 72 hours before the hearing. This rulemaking's public record will close at 5:00 p.m. on January 5, 2011.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

Not applicable

**13. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY  
PERMIT AND COMPLIANCE FEES**

**ARTICLE 1. WATER QUALITY PROTECTION FEES**

Section

R18-14-101. Definitions

R18-14-102. Hourly Rate and ~~Flat Rate~~ Maximum Fees for Water Quality Protection Services

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Table 1.	<del>General Permit</del> <u>Maximum</u> Fees
R18-14-103.	Initial Fees
R18-14-104.	<del>Maximum</del> <u>Annual</u> Fees for Water Quality Protection Services Subject to Hourly Rate Fee
<u>Table 2.</u>	<u>APP Annual Registration Fees</u>
<u>Table 3.</u>	<u>AZPDES Annual Fees</u>
R18-14-105.	Fee Assessment and Collection
R18-14-108.	<u>APP Water Quality Protection Services Flat Fees for Fiscal Year 2011</u>
<del>Table 2.</del>	
<u>Table 4.</u>	<u>Type 2 and 3 General Permit Fees</u>
<u>Table 5.</u>	<u>Type 4 General Permit Fees</u>
R18-14-109.	<u>AZPDES Water Quality Protection Services Flat Fees</u>
<u>Table 6.</u>	<u>AZPDES Water Quality Protection Services Flat Fees</u>
R18-14-110.	<u>Reclaimed Water Flat Fees</u>
<u>Table 7.</u>	<u>Reclaimed Water General Permit Fees</u>
R18-14-111.	<u>Other Flat Fees</u>
R18-14-112.	<u>Implementation</u>
R18-14-113.	<u>Annual Report</u>

ARTICLE 1. WATER QUALITY PROTECTION FEES

**R18-14-101. Definitions**

In addition to the definitions in A.R.S. §§ 49-201, 49-241.02, 49-255, 49-331, ~~and 49-362(F)~~, and A.A.C. R18-9-101, ~~and A.A.C. R18-9-701, and A.A.C. R18-9-A901~~, the following terms apply to this Article:

1. "APP" means an Aquifer Protection Permit.
- ~~1-2.~~ "Complex modification" means:
  - a. A revision of an individual Aquifer Protection Permit for a facility within a mining sector as defined in A.R.S. § ~~49-241.02(F)(2)~~ 49-241.02(F)(1); and
  - b. A revision of an individual Aquifer Protection Permit for a facility within a ~~dry well, industrial, or wastewater~~ non-mining sector due to any of the following:
    - i. An expansion of an existing pollutant management area requiring a new or relocated point of compliance;
    - ii. A new subsurface disposal including injection or recharge, or new wetlands construction;
    - iii. ~~Incorporation of an extensive compliance schedule into a permit;~~
    - iv. ~~A discharge to the waters of the United States with the potential to impact the downgradient protective uses;~~
    - ~~v-iii.~~ Submission of data indicating contamination, or identification of a discharging facility or pollutants not included in previous applications that requires reevaluation of BADCT; or
    - ~~vi-iv.~~ Closure of a facility that cannot meet the clean closure requirements of A.R.S. § 49-252 and requires post-closure care, monitoring, or remediation.
- ~~2.~~ "Owner or operator" means a person with a vested interest in real or personal property, or an authorized representative or agent of that person.
3. "Courtesy review" means a design review service that the Department completes of the 60 percent specifications, design report, and construction drawings for a sewage collection system, within 30 days from the date of receiving the submittals.
4. "Priority review" means a design review service for an APP Type 4 permit application that the Department completes using not more than 50 percent of the total review time-frame for the applicable Type 4 permit application as specified in 18 A.A.C. 1, Table 10.
- ~~3-5.~~ "Request" means a written application, notice, letter, or memorandum submitted by an applicant to the Department for water quality protection services. ~~A The Department considers a request is made at the time on the date it is received by the Department.~~
6. "Review hours" means the hours or portions of hours that the Department's staff spends on a request for water quality protection services. Review hours include the time spent by the project manager and technical review team members, and if requested by the applicant, the supervisor or unit manager.
- ~~4-7.~~ "Review-related costs" means any of the following costs applicable to a specific ~~application~~ request for water quality protection service:
  - a. Presiding officer services for public hearings on a permitting decision;
  - b. Court reporter services for public hearings on a permitting decision;
  - c. Facility rentals for public hearings on a permitting decision;
  - d. Charges for laboratory analyses performed during the ~~application~~ review, and
  - e. Other reasonable, ~~direct, plan~~ and necessary review-related expenses ~~documented in writing by the Department and agreed to by an applicant.~~

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5. "Significant Industrial Users" means the same as in 40 CFR 403.3(t).
6. "Site visit" means an inspection conducted before issuing a permit or approval.
- 7-8. "Standard modification" means an amendment to an individual Aquifer Protection Permit that is not a complex modification.
- 8-9. "Water quality protection service" means:
  - a. Reviewing a request for ~~a~~ an APP determination of applicability;
  - b. Issuing, renewing, amending, transferring, or denying an aquifer protection permit, an AZPDES permit, or a reclaimed water permit;
  - c. Reviewing supplemental information required by a permit condition, including closure for an APP;
  - d. Performing ~~a~~ an APP clean closure plan review;
  - e. Issuing or denying a Subdivision Approval Certificate of Approval for Sanitary Facilities for a Subdivision;
  - f. Registering or transferring registration of a dry well;
  - g. Conducting a site visit;
  - ~~h. Registering a significant industrial user; or~~
  - ~~i. Conducting an annual reclaimed water inspection.~~
  - h. Reviewing proprietary and other reviewed products under A.A.C. R18-9-A309(E);
  - i. Reviewing, processing, and managing documentation related to an AZPDES general permit, including a notice of intent, notice of termination, certificate of no exposure, and waiver;
  - j. Registering and reporting land application of biosolids; or
  - k. Pretreatment program review, inspection, or audit.

**R18-14-102. Hourly Rate and ~~Flat Rate~~ Maximum Fees for Water Quality Protection Services**

- A. The Department shall assess and collect an hourly rate fee ~~or a flat rate fee~~ for a water quality protection service, except for minor permit amendments specified under A.A.C. R18-9-A211(C)(1), ~~(C)(2) (2)~~ and ~~(C)(3) (3)~~ and A.A.C. R18-9-B906(B), unless a flat fee is otherwise designated in this Article.
- B. Hourly rate fees. ~~Except as established under subsection (C), the~~ The Department shall calculate the fee using an hourly rate of ~~\$61~~ \$122, multiplied by the number of review hours to provide a water quality protection service, plus any applicable review-related costs, up to the maximum fee specified ~~under R18-14-104 in subsection (C)~~.
- ~~1. The Department shall not charge an applicant for the first 60 minutes of Department pre-application consultation time costs for the project manager.~~
- ~~2. The Department shall not charge the applicant travel time.~~
- C. ~~Flat rate fees. The Department shall assess a flat rate fee for the following water quality protection services:~~
  - ~~1. Dry well registration, \$10 per dry well;~~
  - ~~2. Significant industrial user registration, \$250 per year;~~
  - ~~3. Determination of applicability, \$100 per request:~~
    - ~~a. If the Department determines that an individual permit is required or that the applicant qualifies for a Type 2, Type 3, or Type 4 General Permit, the \$100 fee shall be applied to the final bill for the individual permit or to the flat rate fee for the general permit.~~
    - ~~b. If the determination of applicability is completed as part of an area-wide permit issued under A.R.S. § 49-243(P), the fee for the individual permit applies.~~
  - ~~4. Subdivision approval. Approvals are granted in phases of 150 lots or less:~~
    - ~~a. Sewage treatment and disposal is provided outside the boundaries of the individual lots, 150 lots or less, \$300;~~
    - ~~b. Sewage treatment and disposal will be located within the boundary of the lot, 40 lots or less, \$500; 41 to 150 lots, \$1000;~~
    - ~~c. The appropriate fee specified in (C)(4)(a) and (C)(4)(b) applies to each phase if a subdivision includes more than 150 lots.~~
  - ~~5. Type 1 General Permits. No fee is required;~~
  - ~~6. Type 2 and Type 3 General Permits:~~
    - ~~a. New permit, expansion, and renewal fees, established in Table 1;~~
    - ~~b. Transfer of ownership, \$50 per transfer;~~
    - ~~c. If a site contains more than 1 facility covered by the same Type 2 or Type 3 General Permit and each facility is substantially similar in design, construction, and operation, the applicant shall pay the fee established under (C)(6)(a) or (C)(6)(b) for the first facility and one-third of the fee for each additional facility.~~
  - ~~7. Type 4 General Permits:~~
    - ~~a. New permit and expansion fees established in Table 1 plus any of the following:~~
      - ~~i. A request for an alternative design, installation, or operational feature, \$75 per change;~~
      - ~~ii. A design requiring an interceptor, \$100 per interceptor;~~
      - ~~iii. A site visit verifying a construction deviation, \$150 per site visit.~~
    - ~~b. If an onsite wastewater treatment system is based on a design that combines elements from more than one Type 4~~



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General Permit, the applicant shall pay the greatest fee established in Table 1 for the appropriate Type 4 General Permit; \$250 for each additional general permit used in the design, and any additional fee specified in subsections (C)(7)(a)(i), (C)(7)(a)(ii), and (C)(7)(a)(iii).

e. Transfer of ownership, \$50 per transfer for the first Type 4 General Permit.

**D.** The Department shall not review a request for a water quality protection service if:

1. The initial fee established in R18-14-103 or flat rate fee established in subsection (C) has not been paid, or
2. The owner or operator has an outstanding water quality protection service bill not under appeal.

**C.** Maximum fees for a water quality protection service assessed at an hourly rate are as follows:

**Table 1. General Permit Maximum Fees**

General Permit Type	Permit Description	New Permit, Expansion, and Renewal Fee With Change	Renewal Fee With No Change
Type 1	All Type 1 General Permits	No Fee	No Fee
Type 2	All Type 2 General Permits	\$300	\$120
Type 3	All Type 3 General Permits	\$1500	\$500
Type 4	-	-	-
<b>SEWER COLLECTIONS SYSTEMS</b>			
4.01	Gravity Sewer Only with Manholes	-	-
	-Serving less than or equal to 50 connections	\$500	No Fee
	-Serving 51 to 300 connections	\$1000	No Fee
	-Serving 301 or more Connections	\$1500	No Fee
	Force Mains Including Gravity Sewer Components		
	-Serving less than or equal to 50 connections	\$800	No Fee
	-Serving 51 to 300 connections	\$1300	No Fee
	-Serving 301 or more connections	\$1800	No Fee
<b>ONSITE WASTEWATER TREATMENT FACILITIES</b>			
4.02	Septic tank/conventional disposal, less than 3000 gallons per day	\$400	No Fee
4.03	Composting toilet, less than 3000 gallons per day	\$400	No Fee
4.04	Pressure distribution system, less than 3000 gallons per day	\$500	No Fee
4.05	Gravelless trench, less than 3000 gallons per day	\$500	No Fee
4.06	Natural seal evapotranspiration bed, less than 3000 gallons per day	\$600	No Fee
4.07	Lined evapotranspiration bed, less than 3000 gallons per day	\$600	No Fee
4.08	Wisconsin mound, less than 3000 gallons per day	\$500	No Fee
4.09	Engineered pad system, less than 3000 gallons per day	\$600	No Fee
4.10	Intermittent sand filter, less than 3000 gallons per day	\$600	No Fee
4.11	Peat filter, less than 3000 gallons per day	\$600	No Fee
4.12	Textile filter, less than 3000 gallons per day	\$600	No Fee
4.13	Ruck® system, less than 3000 gallons per day	\$600	No Fee
4.14	Sewage vault, less than 3000 gallons per day	\$400	No Fee
4.15	Aerobic system/subsurface disposal, less than 3000 gallons per day	\$800	No Fee
4.16	Aerobic system/surface disposal, less than 3000 gallons per day	\$1000	No Fee
4.17	Cap system, less than 3000 gallons per day	\$400	No Fee
4.18	Constructed wetlands, less than 3000 gallons per day	\$600	No Fee
4.19	Sand lined trench, less than 3000 gallons per day	\$500	No Fee
4.20	Disinfection device, less than 3000 gallons per day	\$500	No Fee
4.21	Sequencing batch reactor, less than 3000 gallons per day	\$600	No Fee
4.22	Subsurface drip irrigation, less than 3000 gallons per day	\$500	No Fee

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4.23	Onsite wastewater treatment facility, flow from 3000 to less than 24,000 gallons per day	\$1800	No Fee
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<u>Program Area</u>	<u>Permit Type</u>	<u>Maximum Fee</u>
<u>APP</u>	<u>Individual or area-wide</u>	<u>\$200,000</u>
<u>APP</u>	<u>Complex modification to individual or area-wide</u>	<u>\$150,000</u>
<u>APP</u>	<u>Clean closure of facility</u>	<u>\$50,000</u>
<u>APP</u>	<u>Standard modification to individual or area-wide (per modification up to the maximum fee, and modification can be reassigned under A.A.C. R18-1-516:)</u> <ul style="list-style-type: none"> <li><u>• Maximum fee (cumulative)</u></li> <li><u>• Modification under A.A.C. R18-9-A211(C)(1) through (3)</u></li> <li><u>• Modification under A.A.C. R18-9-A211(C)(4) through (6)</u></li> <li><u>• Modification under A.A.C. R18-9-A211(C)(7), (D)(2)(b) through (i), and (D)(2)(k) through (l)</u></li> <li><u>• Modification under A.A.C. R18-9-A211(D)(2)(a) and (D)(2)(j)</u></li> <li><u>• Modification under A.A.C. R18-9-A211(B) that is not classified as complex modification under R18-14-101(2)</u></li> </ul>	<u>\$150,000</u> <u>No fee</u> <u>\$5,000</u> <u>\$15,000</u> <u>\$25,000</u> <u>\$25,000</u>
<u>APP</u>	<u>For an APP issued before July 1, 2011, the fee for a submittal required by a compliance schedule is assessed per submittal and cumulative up to the maximum fee. Maximum fee is for the lifetime of the APP unless a new compliance schedule is established in the APP due to a modification that is classified as a significant amendment under A.A.C. R18-9-A211(B) and a complex modification under R18-14-101(2).</u> <ul style="list-style-type: none"> <li><u>• For a modification requiring a determination or reevaluation of BADCT, the fee is assessed as described above for standard modification, with a maximum fee of:</u></li> <li><u>• For all other modifications, the fee is assessed as described above for standard modification, with a maximum fee of:</u></li> <li><u>• All other submittals</u></li> </ul>	<u>\$150,000</u> <u>\$100,000</u> <u>\$100,000</u>
<u>APP</u>	<u>For an APP issued on or after July 1, 2011, the fee for a submittal required by a compliance schedule is assessed per submittal and cumulative up to the maximum fee for the lifetime of the APP</u>	<u>\$100,000</u>
<u>APP</u>	<u>Determination of applicability</u>	<u>\$15,000</u>
<u>APP</u>	<u>Reviewing proprietary and other reviewed products under A.A.C. R18-9-A309(E):</u>	<u>\$15,000</u>
<u>AZPDES</u>	<u>Individual permit for municipal separate storm sewer system</u>	<u>\$40,000</u>
<u>AZPDES</u>	<u>Individual permit for wastewater treatment plant (based on gallons of discharge per day)</u> <ul style="list-style-type: none"> <li><u>• 3,000 to 99,999</u></li> <li><u>• 100,000 to 999,999</u></li> <li><u>• 1,000,000 to 9,999,999</u></li> <li><u>• 10,000,000 or more</u></li> </ul>	<u>\$15,000</u> <u>\$20,000</u> <u>\$30,000</u> <u>\$50,000</u>
<u>AZPDES</u>	<u>Individual permit for a facility or activity that is not a wastewater treatment plant or a municipal separate storm sewer</u>	<u>\$30,000</u>
<u>AZPDES</u>	<u>Amendment to individual permit</u>	<u>\$12,500</u>
<u>AZPDES</u>	<u>Approval of a new or revised pretreatment program under AZPDES</u>	<u>\$10,000</u>
<u>AZPDES</u>	<u>Consolidated individual permit for multiple AZPDES individual permits, as allowed under A.A.C. R18-9-B901(C)</u>	<u>Aggregate of the applicable maximum fees</u>

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<u>Reclaimed</u>	<u>Reclaimed water individual permit</u>	<u>\$32,000</u>
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**R18-14-103. Initial Fees**

- A.** ~~Except for annual reclaimed water inspections, an applicant shall submit a \$1000 initial fee for each water quality protection service subject to an hourly rate fee established under R18-14-102(B) at the time an application is submitted to the Department for review. A person shall submit the applicable fee at the time a request for a water quality protection service is submitted to the Department.~~
- B.** For each water quality protection service subject to an hourly rate fee established under R18-14-102:
1. ~~An applicant shall submit a \$2,000 initial fee at the time a request is submitted to the Department for review.~~
  2. ~~If requested by an applicant, the Department may set a lower initial fee when the Department estimates a review fee that is less than the applicable initial fee.~~
- C.** ~~The Department shall not review a request for a water quality protection service if the applicant or permittee has not paid any fee due under this Article, unless the applicant or permittee has an outstanding water quality protection service bill that is under appeal.~~

**R18-14-104. ~~Maximum Annual Fees for Water Quality Protection Services Subject to Hourly Rate Fee~~**

- A.** ~~Maximum fees for Aquifer Protection Permit actions:~~
1. ~~Maximum fees for individual Aquifer Protection Permits, complex modifications, standard modifications, clean closures, and denials shall be determined as prescribed under A.R.S. § 49-241.02(A) and the hourly rate specified under R18-14-102(B):~~
    - a. ~~The public shall have an opportunity to comment on factors used to obtain the maximum fee.~~
    - b. ~~The Department shall list the maximum fees in an Annual Fee Schedule which shall be published in the *Arizona Administrative Register* by June 1 of each year, except for FY01 when it will be published by January 1, 2001.~~
  2. ~~When an application is deemed administratively complete, the Department shall notify the applicant of the applicable maximum fee for review of the application. The maximum fee will be the lesser of the effective maximum fee determined under subsection (A)(1) or the applicable maximum fee specified under A.R.S. § 49-241.02(B).~~
  3. ~~Unless the applicant has been previously noticed, the Department shall issue a supplemental notice specifying the maximum fee for a pending project deemed administratively complete before January 1, 2001.~~
- B.** ~~Maximum fees for Reclaimed Water Individual Permits. The Department shall charge no more than \$16,000 for review of each reclaimed water individual permit application.~~
- A.** ~~Annual Registration Fees. The annual registration fee required under A.R.S. § 49-242 is in Table 2:~~

**Table 2. APP Annual Registration Fees**

<u>Discharge or Influent per Day under the Individual APP or Notice of Disposal (in Gallons)</u>	<u>Annual Registration Fee</u>	<u>Annual Registration Fee if New Facility Under New APP Not Constructed</u>
<u>3,000 to 9,999</u>	<u>\$500</u>	<u>\$250</u>
<u>10,000 to 99,999</u>	<u>\$1,000</u>	<u>\$250</u>
<u>100,000 to 999,999</u>	<u>\$2,500</u>	<u>\$500</u>
<u>1,000,000 to 9,999,999</u>	<u>\$6,000</u>	<u>\$625</u>
<u>10,000,000 or more</u>	<u>\$8,500</u>	<u>\$750</u>

- B.** ~~The Department shall assess an annual fee for an AZPDES-related water quality protection service subject to an hourly rate fee as listed in Table 3:~~

**Table 3. AZPDES Annual Fees**

<u>Permit Type</u>	<u>Annual Fee</u>	<u>Annual Fee if New Facility Under New AZPDES Not Constructed</u>
<u>Municipal separate storm sewer system</u>	<u>\$10,000</u>	<u>N/A</u>
<u>Wastewater treatment plant (based on gallons of discharge per day):</u>		
• <u>Less than 99,999</u>	<u>\$250</u>	<u>\$250</u>
• <u>100,000 to 999,999</u>	<u>\$500</u>	<u>\$500</u>
• <u>1,000,000 to 9,999,999</u>	<u>\$2,500</u>	<u>\$625</u>

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• <u>10,000,000 or more</u>	<u>\$4,000</u>	<u>\$750</u>
<u>Facility or activity that is not a wastewater treatment plant or municipal separate storm sewer and designated in the permit as either:</u>		
• <u>Major</u>	<u>\$2,500</u>	<u>\$625</u>
• <u>Minor</u>	<u>\$500</u>	<u>\$500</u>
<u>Pretreatment program</u>	<u>\$3,000</u>	<u>N/A</u>
<u>Consolidated individual permit for multiple AZPDES individual permits, as allowed under A.A.C. R18-9-B901(C)</u>	<u>Aggregate of the applicable annual fees of each individual permit</u>	<u>Aggregate of the applicable annual fees of each individual permit</u>

**C.** The Department shall assess an annual fee of \$500 for an individual reclaimed water permit.

**R18-14-105. Fee Assessment and Collection**

**A.** Billing. The Department shall bill an applicant for water quality protection services subject to an hourly rate no more than monthly, but at least quarterly. The following information shall be included in each bill:

1. The dates of the billing period;

1-2. The date and number of review hours of the review (excluding hours for travel time and the first 60 minutes of pre-application consultation time) accrued itemized by employee name, position type by activity and subactivity code during the billing period, and the effective hourly rate for all activities; and specifically describing:

a. Each water quality protection service performed;

b. Each facility involved and program component, and

c. The hourly rate for each water quality protection service performed;

2-3. A description and amount of each review-related cost incurred for the project;

3-4. The total fees due and paid to date, the total fees due for the billing period, the date when the fees are due, which shall be at least 35 days after the date on the bill and the maximum fee for the project; and

4. A description, by date, of each water quality protection service performed.

**B.** Annual reclaimed water inspection. If the Department conducts an annual reclaimed water inspection, the owner or operator shall pay the final itemized bill within 30 days from the date on which the final inspection report and final itemized bill are mailed to the owner or operator.

**C.B.** Final bill. After the Department makes a final determination whether to grant or deny a request for a permit or an approval water quality protection services subject to an hourly rate fee, or when an applicant withdraws or closes the application request, the Department shall prepare a final itemized bill for an application of its review.

1. If the total fee exceeds the amount of the initial fee plus all invoicing, the Department shall issue a final itemized bill for the cost of the water quality protection services up to the applicable maximum fee established under ~~R18-14-104~~ R18-14-102.

2. If the total fee is less than the initial fee and all paid invoicing charges, the Department shall refund the difference to the applicant.

3. Fees for water quality protection services shall be paid in U.S. dollar by cash, check, cashier's check, money order, or any other method acceptable to the Department.

4. The Department shall not release the final permit or approval until the final itemized bill is paid in full.

**R18-14-108. APP Water Quality Protection Services Flat Fees for Fiscal Year 2011**

**A.** Beginning on July 1, 2010 until June 30, 2011, the fees listed in Table 2 increase and supersede any fee listed otherwise in this Article or in A.R.S. Title 49, Chapter 2, Article 3.

**B.** In addition to the annual registration fee required under A.R.S. § 49-242 for Calendar Year 2010, a one-time increased annual registration fee as listed in Table 2 shall be due within 30 days of the invoice postmark date for the increased fee.

**C.** This Section and Table 2 will repeal automatically, effective July 1, 2011.

**Table 2.**

<u>Water Quality Protection Service</u>	<u>Applicable Fee</u>
<b>Individual Permits</b>	
Individual or Area-wide Aquifer Protection Permit	\$122 per hour up to maximum of \$200,000
Complex Modification to Individual or Area-wide Aquifer Protection Permit	\$122 per hour up to maximum of \$200,000

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Clean closure of facility without Aquifer Protection Permit	\$122 per hour up to maximum of \$70,000
Standard Modification to Individual or Area-wide Aquifer Protection Permit	\$122 per hour up to maximum of \$50,000
Reclaimed Water Individual Permit	\$122 per hour up to maximum of \$32,000
<b>Increased Fee Required for Annual Registration per A.R.S. § 49-242 of Discharge or Influent per Day Under the Permit or Notice of Disposal (in Gallons)</b>	
Gallons of Permitted Discharge or Influent per Day	
3000 to 9999	\$25
10,000 to 99,999	\$150
100,000 to 999,999	\$1500
1,000,000 to 9,999,999	\$2500
10,000,000 or more	\$4000
<b>General Permits</b>	
All Type 2 General Permits	\$600
All Type 2 General Permits Renewals	\$200
All Type 3 General Permits	\$3000
All Type 3 General Permits Renewals	\$1000
Type 4.01 General Permit Sewer Collections Systems	
Gravity Sewer Only with Manholes	
-Serving less than or equal to 50 connections	\$1000
-Serving 51 to 300 connections	\$2000
-Serving 301 or more Connections	\$3000
Force Mains Including Gravity Sewer Components	
-Serving less than or equal to 50 connections	\$1600
-Serving 51 to 300 connections	\$2600
-Serving 301 or more connections	\$3600
Type 4 Onsite Wastewater Treatment Facilities	
Type 4.02 Septic tank/conventional disposal, less than 3000 gallons per day	\$800
Type 4.03 Composting toilet, less than 3000 gallons per day	\$800
Type 4.04 Pressure distribution system, less than 3000 gallons per day	\$1000
Type 4.05 Gravelless trench, less than 3000 gallons per day	\$1000
Type 4.06 Natural seal evapotranspiration bed, less than 3000 gallons per day	\$1200
Type 4.07 Lined evapotranspiration bed, less than 3000 gallons per day	\$1200
Type 4.08 Wisconsin mound, less than 3000 gallons per day	\$1000
Type 4.09 Engineered pad system, less than 3000 gallons per day	\$1200
Type 4.10 Intermittent sand filter, less than 3000 gallons per day	\$1200
Type 4.11 Peat filter, less than 3000 gallons per day	\$1200
Type 4.12 Textile filter, less than 3000 gallons per day	\$1200
Type 4.13 Ruck® system, less than 3000 gallons per day	\$1200
Type 4.14 Sewage vault, less than 3000 gallons per day	\$800
Type 4.15 Aerobic system/subsurface disposal, less than 3000 gallons per day	\$1600
Type 4.16 Aerobic system/surface disposal, less than 3000 gallons per day	\$2000
Type 4.17 Cap system, less than 3000 gallons per day	\$800
Type 4.18 Constructed wetlands, less than 3000 gallons per day	\$1200
Type 4.19 Sand lined trench, less than 3000 gallons per day	\$1000
Type 4.20 Disinfection device, less than 3000 gallons per day	\$1000
Type 4.21 Sequencing batch reactor, less than 3000 gallons per day	\$1200

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Type 4.22 Subsurface drip irrigation, less than 3000 gallons per day	\$1000
Type 4.23 Onsite wastewater treatment facility, flow from 3000 to less than 24,000 gallons per day	\$3600
Each additional general permit for multiple design elements from more than one Type 4 General Permit, as stated in R18-14-102(C)(7)(b)	\$500
<b>Other Services</b>	
Dry well registration	\$100
Determination of Applicability	\$1000
Subdivision approval with sewage treatment and disposal provided outside the boundaries of individual lots	\$600 per 150 lots
Subdivision approval with sewage treatment and disposal located within the boundary of lot	\$1000 for 40 lots or less \$2000 for 41 to 150 lots \$2000 per additional 150 lots

- A.** The Department shall assess a flat fee for an APP water quality protection service listed in this Section.
- B.** Type 1 General Permits. No fee is required, except as stated in A.A.C. R18-9-A304(A)(2).
- C.** Fees for Type 2 and Type 3 General Permits and related water quality protection services are listed in Table 4. For purposes of this Section, "Complex" is defined in A.A.C. R18-1-501(9).

**Table 4. Type 2 and 3 General Permit Fees**

<u>Permit Description</u>	<u>Permit Fee</u>	<u>Renewal Fee</u>
<u>Standard Type 2</u>	<u>\$1,500</u>	<u>\$500</u>
<u>Complex Type 2</u>	<u>\$3,000</u>	<u>\$1,000</u>
<u>Standard Type 3</u>	<u>\$4,500</u>	<u>\$1,500</u>
<u>Complex Type 3</u>	<u>\$7,500</u>	<u>\$2,500</u>
<u>Amendment to Notice of Intent</u>	<u>Same as applicable renewal fee</u>	<u>N/A</u>
<u>Transfer of permit authorization</u>	<u>\$50</u>	<u>N/A</u>
<u>If a site contains more than one facility covered by the same Type 2 or Type 3 General Permit and each facility is substantially similar in design, construction, and operation, the first facility is paid at the full applicable fee, and each additional facility is:</u>	<u>Half the applicable fee</u>	<u>Half the applicable fee</u>

- D.** Fees for Type 4 General Permits and related water quality protection services are listed in Table 5.

**Table 5. Type 4 General Permit Fees**

<u>Water Quality Protection Service</u>	<u>Description</u>	<u>Permit Fee</u>
<u>4.01 General Permit: Sewage Collection Systems</u>	<p><u>Under each Notice of Intent to Discharge, the fee is assessed on a per component basis for the components listed below and is assessed cumulatively up to the maximum fee</u></p> <ul style="list-style-type: none"> <li><u>Maximum fee</u></li> <li><u>Force mains with design flow less than or equal to 10,000 gpd</u></li> <li><u>Each additional increment of 50,000 gpd or less of force mains</u></li> <li><u>Gravity sewer with design flow less than or equal to 10,000 gpd</u></li> <li><u>Each additional increment of 50,000 gpd or less of gravity sewer</u></li> </ul>	<p><u>\$25,000</u></p> <p><u>\$1,000</u></p> <p><u>\$1,000</u></p> <p><u>\$1,000</u></p> <p><u>\$1,000</u></p>

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	<ul style="list-style-type: none"> <li>• <u>Each sewer lift station</u></li> <li>• <u>Each depressed sewer</u></li> <li>• <u>Realignment of existing sewer for a contiguous project that is less than 300 linear feet with no change in design flow or pipe size</u></li> </ul>	<u>\$1,000</u> <u>\$1,000</u> <u>\$500</u>
<u>4.01 General Permit courtesy review</u>	<u>If an applicant requests courtesy review, the Department shall approve or deny the request. When determining whether to approve a courtesy review request, the Department shall consider the complexity of the project and the Department's current work load.</u>	<u>One-third applicable fee upon submittal, then balance of fee if Notice of Intent to Discharge is submitted with final documentation within 180 days of first submittal</u>
<u>4.23 General Permit: 3,000 to less than 24,000 Gallons per day Design Flow</u>	<ul style="list-style-type: none"> <li>• <u>Onsite wastewater treatment facility with up to:</u> <ul style="list-style-type: none"> <li>– <u>Three treatment technologies and disposal methods consisting of technologies or designs that are covered under other Type 4 general permits; and</u></li> <li>– <u>Two onsite wastewater treatment facilities</u></li> </ul> </li> <li>• <u>Maximum fee (cumulative)</u></li> <li>• <u>Each additional onsite wastewater treatment facility on same Notice of Intent to Discharge up to maximum fee</u></li> <li>• <u>Each additional treatment technology or disposal method consisting of technologies or designs that are covered under other Type 4 general permits on same Notice of Intent to Discharge up to maximum fee</u></li> </ul>	<u>\$3,600</u>  <u>\$7,500</u> <u>\$1,200</u>  <u>\$500</u>
<u>4.23 General Permit annual report</u>	<u>Annual report required under A.A.C. R18-9-E323(G)</u>	<u>\$200</u>
<u>Type 4 General Permits (4.02 through 4.22)</u>	<ul style="list-style-type: none"> <li>• <u>Maximum fee</u></li> <li>• <u>First Type 4 general permit</u></li> <li>• <u>Each additional Type 4 general permit on same Notice of Intent to Discharge</u></li> </ul>	<u>\$3,700</u> <u>\$1,200</u> <u>\$500</u>
<u>Alternative Design under A.A.C. R18-9-A312(G)</u>	<u>A request for an alternative design, installation, or operational feature, per alternative design:</u> <ul style="list-style-type: none"> <li>• <u>Type 4.01 general permit</u></li> <li>• <u>All other Type 4 general permits</u></li> </ul>	<u>\$750</u> <u>\$250</u>
<u>Interceptor under A.A.C. R18-9-A315</u>	<u>A design requiring an interceptor (per interceptor)</u>	<u>\$100</u>
<u>Transfer</u>	<u>Transfer of discharge authorization</u>	<u>\$50</u>
<u>Priority Review</u>	<u>If an applicant requests priority review, the Department shall approve or deny the request. When determining whether to approve a priority review request, the Department shall consider the complexity of the project and the Department's current work load.</u>	<u>Double the Applicable Fee (including any applicable maximum fee)</u>

**R18-14-109. AZPDES Water Quality Protection Services Flat Fees**

- A.** The Department shall assess a flat fee for an AZPDES water quality protection service, as described in Table 6.
- B.** In addition to the requirements in A.A.C. R18-9-A907(A), a draft permit will state the category and fee assigned to the permit and the factors for establishing the fee, according to Table 6. Any person may comment on the fee category assignment as part of the public comment period described in A.A.C. R18-9-A908.
- C.** Annual Fee. The Department shall bill an annual fee to permittees who have not filed a notice of termination for an applicable general permit.

**Table 6. AZPDES Water Quality Protection Services Flat Fees**

<u>Category</u>	<u>Factors for Establishing Fees</u>	<u>Initial Fee</u>	<u>Annual Fee</u>
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<u>Municipal Separate Storm Sewer System General Permit</u>	<p><u>The fee is based on the population of the permitted area:</u></p> <ul style="list-style-type: none"> <li>• <u>Less than or equal to 10,000</u></li> <li>• <u>Greater than 10,000 but less than or equal to 100,000</u></li> <li>• <u>Greater than 100,000</u></li> </ul> <p><u>The fee for a non-traditional municipal separate storm sewer system, such as a hospital, college or military facility</u></p>	<p><u>\$2,500</u></p> <p><u>\$5,000</u></p> <p><u>\$7,500</u></p> <p><u>\$5,000</u></p>	<p><u>\$2,500</u></p> <p><u>\$5,000</u></p> <p><u>\$7,500</u></p> <p><u>\$5,000</u></p>
<u>Construction General Permit</u>	<p><u>The fee is based on the amount of acreage identified in the Notice of Intent:</u></p> <ul style="list-style-type: none"> <li>• <u>Less than or equal to 1 acre</u></li> <li>• <u>Greater than 1 acre but less than or equal to 40 acres</u></li> <li>• <u>Greater than 40 acres</u></li> </ul> <p><u>Pollution prevention plan review</u></p> <ul style="list-style-type: none"> <li>• <u>Each additional submittal due to deficiency</u></li> </ul> <p><u>Waiver</u></p> <p><u>If more than one person must apply for general permit coverage of the same facility or discharge activity, each person pays:</u></p>	<p><u>\$250</u></p> <p><u>\$350</u></p> <p><u>\$500</u></p> <p><u>\$1,000</u></p> <p><u>\$500</u></p> <p><u>\$750</u></p> <p><u>Fee applicable to the amount of acreage each person controls</u></p>	<p><u>\$250</u></p> <p><u>\$350</u></p> <p><u>\$500</u></p> <p><u>N/A</u></p> <p><u>N/A</u></p> <p><u>N/A</u></p> <p><u>Fee applicable to the amount of acreage each person controls</u></p>
<u>Multi-Sector General Permit</u>	<p><u>The fee is based on the amount of acreage identified in the Notice of Intent:</u></p> <ul style="list-style-type: none"> <li>• <u>Less than or equal to 1 acre</u></li> <li>• <u>Greater than 1 acre but less than or equal to 40 acres</u></li> <li>• <u>Greater than 40 acres</u></li> </ul> <p><u>Pollution prevention plan review</u></p> <ul style="list-style-type: none"> <li>• <u>Each additional submittal due to deficiency</u></li> </ul> <p><u>Certificate of No Exposure</u></p> <p><u>If more than one person must apply for general permit coverage of the same facility or discharge activity, each person pays:</u></p>	<p><u>\$350</u></p> <p><u>\$500</u></p> <p><u>\$1,000</u></p> <p><u>\$1,000</u></p> <p><u>\$500</u></p> <p><u>\$1,250</u></p> <p><u>Fee applicable to the amount of acreage each person controls</u></p>	<p><u>\$350</u></p> <p><u>\$500</u></p> <p><u>\$1,000</u></p> <p><u>N/A</u></p> <p><u>N/A</u></p> <p><u>N/A</u></p> <p><u>Fee applicable to the amount of acreage each person controls</u></p>
<u>General Permits for Non-Stormwater Discharges</u>	<p><u>The fee is based on the Department's anticipated staff hours over a five year period for permit development, customer service, review of the notice of intent, and annual data review and inspections, and divided by the number of potential permittees</u></p> <ul style="list-style-type: none"> <li>• <u>Level 1A</u></li> <li>• <u>Level 1B</u></li> <li>• <u>Level 2</u></li> <li>• <u>Level 3</u></li> <li>• <u>Level 4A</u></li> <li>• <u>Level 4B</u></li> </ul> <p><u>Pollution prevention plan review</u></p> <ul style="list-style-type: none"> <li>• <u>Each additional submittal due to deficiency</u></li> </ul>	<p><u>\$250</u></p> <p><u>\$500</u></p> <p><u>\$1,250</u></p> <p><u>\$1,500</u></p> <p><u>\$2,000</u></p> <p><u>\$2,500</u></p> <p><u>\$1,000</u></p> <p><u>\$500</u></p>	<p><u>\$250</u></p> <p><u>\$500</u></p> <p><u>\$1,250</u></p> <p><u>\$1,500</u></p> <p><u>\$2,000</u></p> <p><u>\$2,500</u></p> <p><u>N/A</u></p> <p><u>N/A</u></p>
<u>Emergency Discharge General Permit</u>	<u>Authorization for emergency discharge</u>	<u>\$10,000</u>	<u>N/A</u>



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<u>Transfer</u>	<u>Permit authorization as allowed under A.A.C. R18-9-B905</u>	<u>\$50</u>	<u>N/A</u>
<u>Biosolids Land Applicators</u>	<u>Initial registration</u>	<u>\$500</u>	<u>N/A</u>
	<u>Registration amendment</u>	<u>\$250</u>	<u>N/A</u>
	<u>Annual report based on amount of dry metric tons applied</u>		
	<ul style="list-style-type: none"> <li>• <u>Less than or equal to 25,000 dry metric tons</u></li> <li>• <u>Greater than 25,000 dry metric tons</u></li> </ul>	<u>N/A</u>  <u>N/A</u>	<u>\$3,000</u>  <u>\$6,000</u>

**R18-14-110. Reclaimed Water Flat Fees**

The Department shall assess a flat fee for a reclaimed water quality protection service as listed in Table 7. For purposes of this Section, "Complex" is defined in A.A.C. R18-1-501(9).

**Table 7. Reclaimed Water General Permit Fees**

<u>Permit Description</u>	<u>Permit Fee</u>	<u>Renewal Fee</u>
<u>Standard Type 2</u>	<u>\$600</u>	<u>\$450</u>
<u>Complex Type 2</u>	<u>\$750</u>	<u>\$575</u>
<u>Standard Type 3</u>	<u>\$1,500</u>	<u>\$1,250</u>
<u>Complex Type 3</u>	<u>\$2,000</u>	<u>\$1,500</u>
<u>Amendment to Notice of Intent</u>	<u>Same as applicable renewal fee</u>	<u>N/A</u>
<u>Transfer of permit authorization</u>	<u>\$50</u>	<u>N/A</u>

**R18-14-111. Other Flat Fees**

Flat fees. The Department shall assess a flat fee for the following water quality protection services:

1. Dry well registration, \$100 per dry well;
2. Dry well transfer of registration, \$50 per transfer;
3. Certificate of Approval for Sanitary Facilities for Subdivisions.
  - a. Subdivision with public sewerage system: \$800 for every increment of 150 lots or less;
  - b. Subdivision with individual sewerage system:
    - i. \$500 for less than 10 lots;
    - ii. \$1,000 for greater than 10 lots but less than 50 lots;
    - iii. \$1,000 for each additional increment of 50 lots or less.
  - c. If water from a central system is not provided to the lot, the fee is one and one-half the applicable fee stated in subsections (3)(a) or (b).
  - d. Condominium subdivision: \$1,000 for every increment of 150 units or less.

**R18-14-112. Implementation**

The fees in this Article apply on the effective date of these rules. For fees related to the AZPDES program:

1. A person shall submit the applicable fee when requesting a water quality protection service as specified in an AZP-DES General Permit or in 18 A.A.C. 9, Article 9; and
2. A person is responsible for paying the annual fee for an AZPDES general permit, even if the person filed for coverage before the effective date of these rules.

**R18-14-113. Annual Report**

By December 1 of each year, the Department shall publish an accounting of Water Quality Fee Fund revenue and expenditure activity for the prior fiscal year.